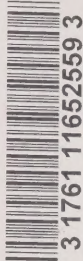


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Ontario

ENVIRONMENTAL ASSESSMENT BOARD

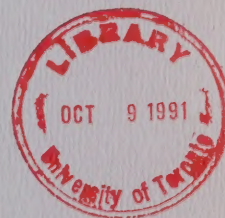
VOLUME: 330

DATE: Wednesday, September 25, 1991

BEFORE:

A. KOVEN Chairman

E. MARTEL Member



FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

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ENVIRONMENTAL ASSESSMENT BOARD

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FOR HEARING UPDATES CALL (COLLECT CALLS ACCEPTED) (416)963-1249

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the Sunset Inn, Sioux Lookout,
Ontario, on Wednesday, September 25th, 1991,
commencing at 2:00 p.m.

VOLUME 330


BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	
MS. C. BLASTORAH)	MINISTRY OF NATURAL
MS. K. MURPHY)	RESOURCES
MR. B. CAMPBELL)	
MS. J. SEABORN)	MINISTRY OF ENVIRONMENT
MS. N. GILLESPIE)	
MR. R. TUER, Q.C.)	
MS. E. CRONK)	ONTARIO FOREST
MR. R. COSMAN)	INDUSTRIES ASSOCIATION
MR P. CASSIDY)	
MR. D. HUNT)	
MR. R. BERAM	ENVIRONMENTAL ASSESSMENT BOARD
MR. E. HANNA)	ONTARIO FEDERATION OF
DR. T. QUINNEY)	ANGLERS & HUNTERS AND
MR. D. HUNTER)	NISHNAWBE-ASKI NATION
MR. M. BAEDER)	and WINDIGO TRIBAL COUNCIL
MS. M. SWENARCHUK)	FORESTS FOR TOMORROW
MR. R. LINDGREN)	
MR. D. COLBORNE)	GRAND COUNCIL TREATY
MR. G. KAKEWAY)	#3.
MR. J. IRWIN	ONTARIO METIS & ABORIGINAL ASSOCIATION
MR. J. ANTLER	NORTHERN ONTARIO TOURIST OUTFITTERS ASSOCIATION
MS. M. HALL	KIMBERLY-CLARK OF CANADA LIMITED and SPRUCE FALLS POWER & PAPER COMPANY
MR. R. COTTON	BOISE CASCADE OF CANADA LTD.



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APPEARANCES: (Cont'd)

MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES)	ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS
MR. B. BABCOCK)	JOINT MUNICIPAL COMMITTEE
MR. D. SCOTT)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL		GREAT LAKES FOREST
MR. S.M. MAKUCH		CANADIAN PACIFIC FOREST PRODUCTS LTD.
MR. D. CURTIS)	ONTARIO PROFESSIONAL
MR. J. EBBS)	FORESTERS ASSOCIATION
MR. D. KING		VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY

APPEARANCES: (Cont'd)

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>ROSIE MOSQUITO,</u>	
<u>EDITH LOON,</u>	
<u>KERRY LASTHEELS,</u>	
<u>PAUL BEARDY,</u>	
<u>DENNIS CROMARTY,</u>	
<u>JOHN NAWAKEESIC,</u>	
<u>MARY NAWAKEESIC,</u>	
<u>GRAND CHIEF BEN CHEECHOO,</u>	
<u>CHARLES FOX,</u>	
<u>ISAAC BEARDY,</u>	
<u>FRANK McKAY,</u>	
<u>GEORGE McKIBBON, Affirmed</u>	57990
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I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1956	Correspondence dated September 23rd from Mr. Hunter to the Board, letter from Mr. Hunter to Messrs. Freidin and Cassidy, and two letters from Mr. Wildman.	57996
1957	Seven-page document entitled: Statement of Agreement Concerning Principles for Terms and Conditions.	57996
1958	NAN Witness statement No. 5.	57997
1959	CVs for Mr. Bentley G. Cheechoo, Mr. Dennis Franklin Cromarty, Mr. Frank McKay, Mr. Charles Fox, Ms. Rosie Mosquito, and Mr. George Hamilton McKibbon.	57997
1960	Video prepared and submitted by NAN and Windigo Tribal Council.	58057

1 ---Upon commencing at 9:00 a.m.

2 MADAM CHAIR: Good morning. Please be
3 seated.

4 Good morning, Mr. Hunter.

5 MR. HUNTER: Ms. Koven, Mr. Martel.

6 MADAM CHAIR: Good morning everyone
7 around the table. The Board is very pleased that so
8 many people from the Nishnawbe-Aski First Nations could
9 come and speak to the Board today. And the purpose of
10 this session is to hear your position on the Timber
11 Management Class Environmental Assessment hearing.

12 It isn't meant to be an intimidating
13 process, it's always a very difficult thing to speak in
14 front of a crowd and Mr. Martel and I encourage you to
15 be very relaxed and say what you want to say and any
16 one may choose to do so.

17 I think, Mr. Hunter, we will begin by
18 hearing from you, because there were changes yesterday
19 with respect to how you intend to participate at the
20 hearing, and the Board would like to hear the substance
21 of that and we have from you correspondence dated
22 September 23rd, 1991.

23 And did you want to enter that as an
24 exhibit?

25 MR. HUNTER: Yes, Mrs. Koven. There will

1 be several documents that we're going to enter, so
2 perhaps I could do that all at one time, if that would
3 be convenient to the Board.

4 If I might, I think what I would like to
5 do firstly is introduce to you the people who are in
6 attendance and, subsequent to that, I am going to ask
7 Mr. Beardy to say a prayer to open the session which
8 will be an affirmation of all of the parties of the
9 truthfulness of their statements.

10 I am just simply going to introduce the
11 parties, and I hope that Ms. Maxwell and the
12 transcriber have the order.

13 This is Mrs. Loon from Osnaburgh, Mrs.
14 Lastheels from Osnaburgh, Mr. Beardy from Bearskin,
15 Dennis Cromarty, who is now resident in Thunder Bay,
16 Mr. Nawakeesic and his wife Mary Nawakeesic, Mr.
17 Cheechoo who is the Grand Chief of the Nishnawbe-Aski
18 Nation, Mr. Beardy, who is a resident of Bearskin,
19 Charles Fox, Mr. Frank McKay, who is the executive
20 director of the Windigo Tribal Council, Rose Shawana
21 who is an articling student with our firm, Rosie
22 Mosquito, who has been involved extensively in this
23 activity for the last two years, and George McKibbon,
24 who has also been involved in this environmental and
25 land use planner. My name is David Hunter.

1 And perhaps, Mr. Beardy, if you could,
2 the Prayer.

3 ISAAC BEARDY: (Opening Prayer in
4 Oji-Cree)

5 ROSIE MOSQUITO,
6 EDITH LOON,
7 KERRY LASTHEELS,
8 PAUL BEARDY,
9 DENNIS CROMARTY,
10 JOHN NAWAKEESIC,
11 MARY NAWAKEESIC,
 GRAND CHIEF BEN CHEECHOO,
 CHARLES FOX,
 ISAAC BEARDY,
 FRANK MCKAY,
 GEORGE MCKIBBON, Affirmed

12 MR. HUNTER: Mrs. Koven, Mr. Martel,
13 there are people here who do not speak English and,
14 therefore, will require translation. This will affect
15 our presentation to a certain degree, so I will
16 basically try to speak in pararaphs and then I will
17 stop and I will ask Ms. Maxwell to translate.

18 I have also asked Mr. Cromarty and Ms.
19 Mosquito to assist in this as well, particularly when
20 I'm asking some of the community witnesses questions.

21 So, in those circumstances, I think it
22 would be easier if Mr. Cromarty were to convey the
23 question to the parties and then perhaps provide some
24 response, but in all other circumstances, Ms. Maxwell
25 could provide the translation.

1 I think there's going to have to be some
2 give and take in that process.

3 I would like Ms. Mosquito to tell you a
4 marvelous story about translation before we begin.

5 MS. MOSQUITO: Actually this story
6 happened, actually happened a few years back. I can't
7 recall the details or the names, but there were a group
8 of government officials who went into this one
9 community and the council called in one of their band
10 members to provide translation services for them.

11 Anyhow, the meeting with the government
12 officials involved the question of funding. They had
13 requested some financial assistance of some sort, but
14 anyhow, the meaning wasn't coming through.

15 So there was this exchange of questions
16 and answers, and finally one of the government
17 officials said: Well, we are going to have to double
18 check on that. So anyhow the translator who was a band
19 member, who unfortunately I guess couldn't understand
20 English very well, says -- he turns, to his council and
21 he says: You will be getting two cheques in the mail.

22 MR. HUNTER: So that's why we're going to
23 be very careful.

24 MADAM CHAIR: I think your version is
25 better.

1 MR. HUNTER: What I should like to do
2 first is try to deal with the paper and get that in.

3 As you are aware, and as you stated, we
4 filed with the Board, not as exhibits, but
5 correspondence and that correspondence consists of a
6 letter from myself to the Board, it consists of a
7 letter from myself to Mr. Freidin and Mr. Cassidy, it
8 consists of two letters from Mr. Wildman to myself, and
9 it consists of a document entitled Statement of
10 Agreement Concerning Principles for Terms and
11 Conditions.

12 The other documents we would seek to put
13 into evidence are Panel 5, which I believe you already
14 have and I believe the other parties have. I believe
15 the other parties are also in possession of the other
16 documents referred to.

17 And the only other document I would put
18 in, and this is for the purposes of facilitating the
19 presentation, are only the CVs of the participants at
20 this table, and I've discussed this matter with my
21 friend. I should seek to qualify Mr. McKibbin as an
22 expert in environmental and land use planning and I
23 would briefly refer to his CV.

24 So if I might, I should like to tender as
25 an exhibit the letter to Mr. Freidin and Mr. Cassidy

1 which I believe you have, and I would like to make one
2 correction in that document. That document is
3 September 23. Dear Mr. Freidin and Mr. Cassidy, and in
4 point No. 8 on the second page it says:

5 "NAN, WTC and MNR will cooperate in
6 developing a proposed exemption order for
7 certain timber management activities in
8 the area..", and it says, "...north of
9 50.", that should read:

10 "North of the area of the undertaking."

11 Further, in the Statement of Agreement at
12 point 8 I draw your attention to the following:

13 "If the community chooses to follow the
14 normal public consultation process, the
15 values identified by them at the outset
16 will be...", and insert the following

17 words:

18 "...dealt with in the area of concern
19 planning process."

20 And, accordingly, the words 'treated as
21 areas of concern, and will be identified as such in the
22 planning documentation.' is struck.

23 Is that sufficient, or do you wish me to
24 do that again?

25 MR. MARTEL: I was just wondering, just

1 for clarification, are you striking "...and will be
2 identified as such"?

3 MR. HUNTER: That's correct.

4 MR. MARTEL: All right, thank you.

5 MR. HUNTER: I would ask you to turn to
6 the last page. On your copy there is not a signature
7 line, in the document that I would tender to you there
8 it's stated: David Hunter for Nishnawbe-Aski Nation
9 and Windigo Tribal Council, and that is signed B.
10 Freidin for Ontario Ministry of Natural Resources, and
11 I'm informed by Mr. Cassidy that Mr. Bird of the
12 Ontario Forest Industries Association will sign the
13 document.

14 MR. CASSIDY: That's correct, Madam
15 Chair. Mr. Bird intends to sign this document,
16 however, I'm pleased to report that he's in the midst
17 of negotiations as we speak with other parties pursuant
18 to the negotiation sessions that your Board ordered and
19 was unable to be here today as a result, but the
20 document will be signed by Mr. Bird as soon as he's
21 freed up with these sessions on behalf of OFIA.

22 MR. HUNTER: One last document on that
23 matter. The last sentence in my letter to Mr. Freidin
24 and Mr. Cassidy:

25 "Upon your review of this letter, please

1 forward as soon as possible and serve me
2 on or before September 24th your
3 agreement to the contents of this
4 letter."

5 Mr. Freidin has advised me that the
6 contents of this letter are correct and that he agrees
7 with them.

8 MR. FREIDIN: I can confirm that, that is
9 correct, Madam Chair.

10 MR. HUNTER: And, Mr. Cassidy, we haven't
11 had a chance to speak with, but I assume that's your
12 position as well?

13 MR. CASSIDY: That's correct, Madam
14 Chairman.

15 MR. HUNTER: If I might then, I would
16 tender these two documents.

17 MADAM CHAIR: Do you wish two separate
18 exhibit numbers, Mr. Hunter?

19 MR. HUNTER: Whatever is convenient to
20 the Board. Perhaps it would be best to have separate
21 exhibit numbers.

22 MADAM CHAIR: Then Exhibit 1956 will
23 include correspondence dated September 23rd from
24 yourself to the Board, your letter to Messrs. Freidin
25 and Cassidy, and the two letters from Mr. Wildman.

1 MR. HUNTER: That's correct.

2 ---EXHIBIT NO. 1956: Correspondence dated September
3 23rd from Mr. Hunter to the
4 Board, letter from Mr. Hunter to
Messrs. Freidin and Cassidy, and
two letters from Mr. Wildman.

5 MADAM CHAIR: And Exhibit 1957 will be
6 the Statement of Agreement Concerning Principles for
7 Terms and Conditions.

8 MR. HUNTER: That's correct.

9 MADAM CHAIR: Which is a seven-page
10 document.

11 MR. HUNTER: That's correct.

12 ---EXHIBIT NO. 1957: Seven-page document entitled:
13 Statement of Agreement Concerning
14 Principles for Terms and
Conditions.

15 MADAM CHAIR: NAN's witness statement No.
16 5 will be Exhibit 1958, and the CVs of your witnesses
17 will be Exhibit 1959.

18 MR. HUNTER: Thank you. And those
19 witness statements will be - not witness statements -
20 CVs will be for Mr. Bentley G. Cheechoo, Mr. Dennis
21 Franklin Cromarty, Mr. Frank McKay, M-c-K-a-y, Mr.
22 Charles Fox, Ms. Rosie Mosquito, and Mr. George
23 Hamilton McKibbon.

24 I believe that my colleagues have copies
25 of these CVs and witness statements. (handed)

1 ---EXHIBIT NO. 1958: NAN Witness statement No. 5.
2 ---EXHIBIT NO. 1959: CVs for Mr. Bentley G. Cheechoo,
3 Mr. Dennis Franklin Cromarty, Mr.
4 Frank McKay, Mr. Charles Fox, Ms.
 Rosie Mosquito, and Mr. George
 Hamilton McKibbon.

5 MADAM CHAIR: Thank you.

6 MR. HUNTER: The last item is, I ask the
7 indulgence of my colleagues who have reviewed Mr.
8 McKibbon's curriculum and seek to qualify him as an
9 expert in environmental and land use planning.

10 MADAM CHAIR: Are there any objections to
11 Mr. McKibbon being qualified as such?

12 (no response)

13 Please proceed.

14 MR. HUNTER: Thank you.

15 Mrs. Koven, I think it would be
16 appropriate that a summary of those comments should be
17 given by Ms. Maxwell to the parties in attendance, and
18 if she requires any assistance on that -- I don't think
19 we have to go through the detail but, as I say, an
20 overview of what we have just put in. If she needs
21 assistance, I'll be pleased to help her.

22 MADAM CHAIR: Thank you, Mr. Hunter.

23 Is that all right with you, Mrs. Maxwell,
24 to explain to the people around the table that we have
25 accepted various documents as being evidence and that

1 we have accepted a description of their experience in
2 their CVs, and what else do you want explained, Mr.
3 Hunter?

4 MR. HUNTER: I believe that would be
5 sufficient.

6 MRS. MAXWELL: Fine. (Translating
7 statements into Oji-Cree)

8 MADAM CHAIR: Thank you, Mrs. Maxwell.
9 Please go ahead.

10 MS. MOSQUITO: (Translating statements
11 into Oji-Cree)

12 MADAM CHAIR: Ms. Mosquito, you might
13 explain as well that everything we say today is being
14 written down and that we would be happy to provide
15 copies to everyone around the table, if they want to
16 see what was said today. Of course, it will be in
17 English which will present somewhat of a problem but
18 there is a record of that.

19 MS. MOSQUITO: It will be in English.

20 For clarification here, Mr. Hunter is
21 saying that I am expected to translate what I just
22 said, is that what you --

23 MADAM CHAIR: No.

24 MS. MOSQUITO: Is it required?

25 MADAM CHAIR: No.

1 MS. MOSQUITO: Okay. Because basically I
2 was translating your --

3 MADAM CHAIR: No. What I was saying is
4 normally --

5 MS. MOSQUITO: I understood that. He
6 confused me, so I just wanted a clarification. Sorry.

7 MADAM CHAIR: He can do that.

8 MR. MARTEL: New boy on the block.

9 MR. HUNTER: Well, I think what I was
10 trying to anticipate was that counsel for the other
11 parties, in some circumstances, might want to know what
12 it is that Ms. Mosquito is saying.

13 I am looking to them for some guidance or
14 perhaps even a summary of what was conveyed to the
15 witnesses by Ms. Mosquito might be in order and might
16 prevent any other concerns.

17 I think as counsel I would suggest that
18 in this instance Rosie just give a summary. I think in
19 other instances where we are dealing with straight
20 translation, I think that should be all right, if
21 that's convenient.

22 So rather than -- I can see the looks on
23 the faces of some of the counsel, and in anticipation
24 of their concern, in some instances I think it would be
25 appropriate for us to give a summary, if that's

1 acceptable.

2 MS. MOSQUITO: Well, basically the
3 comments I made were comments that the Madam Chair made
4 at the beginning of the assembly and I was translating
5 that for the benefit of those community members who
6 don't understand English.

7 So I don't think it's necessary to go
8 into any detail.

9 I have a question for the Board, if I
10 may. Would the Board entertain the translation of
11 these transcripts? Would the Board be able to provide
12 translated versions of the transcripts that will
13 transpire today?

14 MADAM CHAIR: Yes, we would be pleased to
15 provide such a translation and we will probably be
16 calling on Mrs. Maxwell to undertake that.

17 MS. MOSQUITO: That would be most
18 appreciated.

19 MR. HUNTER: I think --

20 MADAM CHAIR: Please go ahead, Mr.
21 Hunter.

22 MR. HUNTER: Thank you.

23 Mrs. Koven and Mr. Martel, what I propose
24 to do is the following: I am going to introduce the
25 following witnesses and ask them to make some comments;

1 Mr. Bentley Cheechoo, Grand Chief, who will cover
2 issues associated with the historical and
3 administrative background of NAN, Mr. Dennis Cromarty,
4 the former Grand Chief who will deal with the issues on
5 Treaty with Mr. Beardy, Mr. McKay and Mr. Fox who will
6 deal with the environmental planning concerns, resource
7 concerns, Ms. Mosquito who will deal with the issues
8 associated with her activities in the association with
9 the development of our presentation here, and we will
10 also at that time present you with a video that had
11 been presented to the communities, and then we will
12 provide evidence from the community people.

13 Mr. Machimity is not here, there was an
14 illness in his family, and we are waiting for Ms. Crane
15 and Mr. Loon from Slate Falls and we will proceed with
16 the other witnesses, John and Mary Nawakeesic, Kerry
17 Lastheels and Edith Loon and Mr. Beardy.

18 What I would also propose is that there's
19 in a sense no real propriety on any of the evidence, we
20 are going to focus in an orderly fashion through what
21 would have been our original presentation, only
22 obviously a much briefer fashion.

23 DIRECT EXAMINATION BY MR. HUNTER:

24 Q. Mr. Cheechoo, if I might, please give
25 the Board an overview of your education and your

1 employment history?

2 GRAND CHIEF CHEECHOO: A. Well, I would
3 like to start off by, first of all, Dave, before going
4 into what you've asked, take the opportunity to thank
5 the Board for coming to Sioux Lookout to accommodate
6 our community representative participating in the
7 hearing, because I think that is a very, very important
8 aspect of the hearings that have gone on for the past
9 three years, if you will, that the communities now have
10 an opportunity to participate and I think that's a
11 very, very important factor.

12 And I would like to speak in my language
13 and I will, of course, translate what I've said.

14 (Speaking Cree)

15 In my brief statement I've thanked the
16 Elder Isaac Beardy for the offering of prayer this
17 morning. It is always appropriate that we open every
18 session with a prayer, and during that prayer we always
19 ask for guidance of the great spirit to guide our
20 deliberations and give us guidance in how we deal with
21 the issues on behalf of the Nishnawbe-Aski people.

22 I also thank the people, our other
23 witnesses that have come from their communities and I
24 have thanked them to participate and, to the best of
25 their abilities, to relay to the Board some of the

1 concerns they have in relation to forestry development
2 in the NAN area.

3 So those were my comments in relation to
4 your question, Mr. Hunter, I was born to - I guess put
5 it that way - to my mom and dad, George and Lillian
6 Cheechoo. My father was a member of the Moose Factory
7 First Nation and my mom is from Quebec. I was born in
8 Eastmain, Quebec mainly because my father worked for
9 the Hudson Bay Company, at that time was a clerk in the
10 Hudson Bay store in Eastmain, Quebec.

11 At the age of six we moved back to Moose
12 Factory which is where my father worked and my father
13 took on the trapping and at the age of seven years old
14 I was put into the residential school in Moose Factory.
15 I don't need to go into any details about that because
16 I think you've heard about some of the horror stories
17 as far as that's concerned.

18 But I think in terms of what had
19 transpired with that is going to boarding school and
20 then I went to the Mohawk Institute in Brantford,
21 Ontario for three years, then I went to Kirkland Lake,
22 KLCVI for two years, and then on to Chippewa High
23 School in North Bay, Ontario.

24 On completion of that I was one of those
25 individuals that said I'm going to take a year off and

1 go back after a year and, unfortunately, that never did
2 happen. I met my wife and we are still married today,
3 happily married to her I can say, Jane, and we got
4 married and now have four of our own children and an
5 adopted one.

6 And I've taken other courses. One I've
7 taken is the Ontario for a scalers licence for scaling
8 timber, and I worked for the Gosselin Lumber Company
9 and I scaled for them for 10 years.

10 But I've taken other courses, like, just
11 some accounting, and some business and various other
12 courses I have taken over the years. I have also got
13 some courses in political science. So that's basically
14 what my education background is.

15 MR. HUNTER: Ms. Maxwell, if possible,
16 could you give a summary of this Mr. Cheechoo's
17 statement.

18 MRS. MAXWELL: What he just said?

19 MR. HUNTER: Yes.

20 MRS. MAXWELL: (Translating answer into
21 Oji-Cree)

22 MR. HUNTER: Thank you.

23 Q. Mr. Cheechoo, if you could provide
24 the Board with an overview of your employment, identify
25 that you spent 10 years at Gosselin's, if you could

1 elaborate on that to some degree, and then identify
2 your responsibilities with NAN over the years.

3 GRAND CHIEF CHEECHOO: A. Well, as I
4 indicated in 1968 I came into the workforce. First of
5 all, I was employed with the Lands and Forests at that
6 time, and then after a while it went to the Ministry of
7 Natural Resources, MNR as it's often referred to now,
8 and then I, in 1970, went and worked for Gosselin
9 Lumber Company Limited as a scaler and I worked there
10 until 1980, and basically my function for the first
11 seven years of my employment was as a scaler for the
12 company, and then after seven years I got moved into
13 the personnel as personnel director for the company,
14 responsible for personnel, payroll and that kind of
15 function.

16 But in 1974 I first became, I guess,
17 involved in the community of Constance Lake from the
18 perspective of looking at -- my name was put forward in
19 a nomination process for a councillor in the band
20 council and I got elected as a councillor in '74 and
21 served as a councillor.

22 In 1976 I was elected as Chief of the
23 community and I held that position until 1984. In 1984
24 I became the Deputy Grand Chief of the Nishnawbe-Aski
25 Nation and I held that position until '87.

1 In 1987 I moved on to work with the
2 Nishnawbe-Aski Development Fund as a president of the
3 corporation for implementation of the fund. And then
4 in July, 1988 I got elected as a Grand Chief of the
5 organization.

6 But during my Chiefdomship I've dealt
7 with -- I mean, I've carried on the capacity as a
8 chiefs representative on the executive council, I also
9 was the treasurer of the organization for four years
10 during my tenure as a chief of my own community, and
11 been involved in a lot of the issues that the
12 Nishnawbe-Aski Nation was involved in, directly
13 involved in on a day-to-day basis.

14 Q. Thank you. Please assist the Board
15 and indicate the general responsibilities and duties
16 you have as Grand Chief?

17 A. Well, as the Grand Chief the
18 statement, if you will, that gives me the authority to
19 act on behalf of the Nishnawbe-Aski people is to look
20 after the interests of the Nishnawbe-Aski people in all
21 aspects of -- for their betterment, and also I have the
22 responsibility to warn them of any dangers that
23 threatens the Nishnawbe-Aski people when I think I can.

24 I mean, if I go down and say: Well, I'm
25 responsible for this and I think we can -- before the

1 Board here, we can sit here for the next three hours to
2 tell you exactly what it is that I do, because I don't
3 think that is -- I don't think it's appropriate. A lot
4 of things that go on.

5 Q. Okay.

6 A. But just generally that's what I'm
7 responsible for. And I might just to add one point, I
8 guess, is sometimes it's always noted, I was told this
9 last week, do you speak for everybody? I never profess
10 to speak for everybody in Nishnawbe-Aski because I
11 don't think anybody in any government can say I speak
12 for everybody.

13 Q. Would you give the Board an overview
14 of the geography of the Nishnawbe-Aski Nation in terms
15 of the geographic area and the number of communities
16 and the languages that are spoken?

17 A. Well, the Nishnawbe-Aski area, the
18 Nishnawbe-Aski Nation area that we refer to as
19 Nishnawbe-Aski is the height of land which is known as
20 Treaty No. 9, the majority of the area is Treaty No. 9,
21 and also the parts of Treaty No. 5 that are within the
22 Ontario boundaries, the Province of Ontario boundaries.

23 Within the -- it's the height of land, if
24 you will, because of the Arctic watershed that you have
25 and the territory, if one can put it very sort of in a

1 visual way, if you put a ruler, say, from Kirkland Lake
2 over to Red Lake and everything north of that, but I
3 mean it zig zags all the way through up through the
4 height of land.

5 Within the area there is 44 communities
6 and the dialects that are spoken within the region are
7 Cree, and Oji-Cree and Ojibway. That's the three main
8 dialects of Algonquin language, if you will, that are
9 spoken within the area.

10 Q. And what is the population, sir?

11 A. The population there, we've done
12 recently some -- we went through a whole process of
13 trying to determine the numbers during the last census
14 in -- not the one that went -- not the one that we just
15 had, but the census before. A lot of our communities
16 did not participate in the census mainly from principle
17 and some of the questions that were asked.

18 This time around though the majority of
19 the communities have participated. We don't have those
20 numbers yet. It is estimated, right now we have done
21 work through the Pathway to Success Program where we
22 had to determine some numbers. It is estimated around
23 31,000.

24 Q. Thank you.

25 MR. MARTEL: Could I ask a question, Mr.

1 Hunter.

2 MR. HUNTER: Of course.

3 MADAM CHAIR: In the hearings that are
4 going on and the presentations made and we've read the
5 material -- I'm wondering what's happening to the
6 Nishnawbe people - and the Chief just mentioned it -
7 coming from Kirkland Lake across.

8 The agreement that you have reached, does
9 it involve Kirkland Lake across for the bands that are
10 represented in the material that we have?

11 MR. HUNTER: It would represent all of
12 the communities within the area of the undertaking
13 which I understand to be 15 or 16.

14 MR. MARTEL: Okay. I just wanted that
15 clarified, thank you.

16 MR. HUNTER: It would be misleading.
17 It's within the area of the undertaking and I believe
18 there are 15 or 16 communities. If I am wrong, I will
19 clarify the record.

20 Q. Am I correct, Mr. Cheechoo?

21 GRAND CHIEF CHEECHOO: A. (nodding
22 affirmatively)

23 Q. Mr. Cheechoo?

24 A. Maybe if I could add to what Mr.
25 Martel was asking. When we made application to be

1 intervenors we proceeded on the basis through
2 agreements amongst ourselves that Windigo would proceed
3 on their own as an intervenor to the hearings and
4 Nishnawbe-Aski Nation would also intervene on behalf of
5 the rest of the communities in the Nishnawbe-Aski area.
6 That's how it proceeded.

7 Q. Thank you. Ms. Maxwell, if you could
8 give a summary of Mr. Cheechoo's statement, please.

9 MRS. MAXWELL: You mean just now?

10 MR. HUNTER: Yes.

11 MRS. MAXWELL: (Translating statement
12 into Oji-Cree)

13 MR. HUNTER: Q. Mr. Cheechoo, if you
14 could for the Board, identify the principle issues
15 which you as Grand Chief are involved with and
16 basically what are the principle issues that you're
17 involved with today and what are the principle
18 objectives?

19 GRAND CHIEF CHEECHOO: A. As I indicated
20 in the previous comments, I could bore you for the rest
21 of the day with all the things that I'm involved in,
22 but I think the main focus of the Nishnawbe-Aski
23 leadership and the direction that's been given by the
24 chiefs is to look at the whole area of self-government.

25 And self-government, as we recognize it

1 as an organization, is something that -- the premisy of
2 it is at the community level, the chief in council are
3 the ones that elect the leaders and the chiefs are the
4 ones that provide the direction to move towards the
5 self-government or some form of government within the
6 Nishawbe-Aski area.

7 This objective has been set out in 1973
8 and the objectives for that time were the year 2005
9 that we would be self-governing, and it stems from then
10 when -- other part which stems from that kind of
11 development, is we started looking at the land and
12 resources of the land.

13 Those are very, very key issues if you're
14 looking at self-government how they link together,
15 because a self-government will never happen without the
16 proper land base and I think you -- that is, no matter
17 where you go, the City of Toronto would never ever
18 function without a proper tax base or without the
19 proper economic base for it to survive. And basically
20 those are the type of things that we're looking at as
21 Nishnawbe-Aski people.

22 Q. Thank you. Do you have any further
23 comments, Mr. Cheechoo, which would be of assistance to
24 the Board.

25 A. In terms of what has transpired, I

1 think it is very important to note that what has
2 transpired in the last three years, I think the
3 important part of reaching an understanding with both
4 the Ministry of Natural Resources and also industry
5 itself I think is a milestone in itself that was
6 achieved, okay.

7 We are always put in a position as Native
8 people saying that the things that we want sometimes
9 fall on deaf ears, and I think we can say that this
10 time around what we came after in the terms and
11 conditions, within the confinements of what this
12 process has, we have made some major headways, major
13 gains in terms of -- and I hope that is the spirit that
14 we are going to move in into the future because I think
15 that is very, very important.

16 There are other issues, I think, that are
17 not within the realms of this process that we have here
18 that are still going to be outstanding. As an example,
19 like, I can give you allocation. There's commitment
20 from the Minister to deal with that in a separate area.

21 We have the memorandum of understanding
22 process that will deal directly with those issues
23 affecting lands and resources, and I'm sure in the
24 lands and resources one of the areas is going to be
25 forestry. So there are mechanisms that deal with that.

1 But in terms of at least reaching some
2 administrative understanding and agreement it is
3 certainly a major, major progress that we have made in
4 the last three years.

5 So if one is to say: Did we do something
6 in the last three years of all the grind and -- I mean,
7 that we had to go through, you know, the headaches of
8 it, it seemed like it was going to go on forever.
9 Well, it still may.

10 MR. MARTEL: It's not over yet.

11 GRAND CHIEF CHEECHOO: But I think in
12 terms of at least now we have the mechanism, the
13 mechanisms are starting to fall into place for our
14 people to become involved.

15 It made it very, very difficult - and I
16 said this to previous ministers before - very difficult
17 for our people to read an article in the paper saying
18 there's a hearing in the Town of Sioux Lookout that's
19 going to affect your area, how the heck do you get
20 there, you know.

21 And also the technical expertise for the
22 communities to be able to assess forest management
23 plans or whatever that are being proposed, there is no
24 such mechanism in place that would do that.

25 But hopefully with these kind of

1 agreements now that's the road we're going to go down
2 on and I think, from my perspective, it certainly opens
3 up a new era of participation of our people in how all
4 this planning is going to take place in future years.

5 MR. HUNTER: Ms. Maxwell, could you
6 please summarize Mr. Cheechoo's statements.

7 MRS. MAXWELL: Some of the stuff there
8 would take too long and by the time you get to it I
9 kind of forget, eh.

10 (Translating into Oji-Cree)

11 MR. HUNTER: Q. Mr. Cromarty?

12 MADAM CHAIR: Excuse me. Before we move
13 on, Mr. Hunter. Grand Chief Cheechoo, I was interested
14 in your comment that the issue of -- you believe a good
15 start has been made with respect to the agreement that
16 you have with MNR and with the industry, and you
17 mentioned as something that wasn't within the purview,
18 wasn't taken care of in this hearing, the matter of
19 allocations and you pointed to Mr. Wildman's letter,
20 the Minister of Natural Resources as giving you some
21 assurance that that matter is also being investigated
22 or taken care of.

23 And I wondered with respect to the
24 letter, I've read both letters carefully and I wondered
25 if the reassurance that you have received from Mr.

1 Wildman was in the July 31st letter, and I could read
2 that sentence to make sure that we have the same
3 understanding, that this is what you're relying on, and
4 in the second paragraph of the second page Mr. Wildman
5 writes:

6 "With regard to the allocation of
7 timber resources for northern Native
8 communities, I have already indicated to
9 NAN and Windigo that the Ministry would
10 be creative and more flexible in meeting
11 the timber needs of the Nishnawbe-Aski
12 Nation communities. I also indicated my
13 preparedness to have the Ministry seek,
14 through negotiations, practical solutions
15 which would result in adequate wood
16 allocations being provided for domestic
17 and commercial use."

18 And are those the -- is that the position
19 of the Minister of Natural Resources that you consider
20 to be satisfactory with respect to the allocations
21 issue?

22 GRAND CHIEF CHEECHOO: Yes, I think
23 because I think the commitment is there to at least to
24 begin the negotiation process, but as I was indicating
25 earlier, under the MOU process, which is the memorandum

1 of understanding that we have with both levels of
2 government, it's very clear that lands and resources is
3 one of the items for negotiations through the whole
4 process.

5 So we have those signed agreements and
6 also the commitment in the form of a letter, it is
7 there clearly that we can deal with those issues.

8 MADAM CHAIR: Thank you.

9 MR. HUNTER: Thank you, Mr. Cheechoo.

10 Mr. Cromarty?

11 MADAM CHAIR: Why don't we take a
12 15-minute break right now.

13 ---Recess taken at 10:00 a.m.

14 ---On resuming at 10:10 a.m.

15 MADAM CHAIR: Please be seated.

16 Oh, Mr. Hunter.

17 MR. HUNTER: Q. Mr. Cromarty, I am going
18 to try to avoid the mistake I made with Mr. Cheechoo.
19 I apologize, you have some opening comments you would
20 like to make.

21 MR. CROMARTY: A. Yes, I do.

22 (Through Mrs. Maxwell): I would like to
23 welcome the Board and the other people who are here
24 today. I also want to thank the people up at
25 Nishnawbe-Aski for asking me to participate in this

1 work.

2 I was asked to discuss what this work is
3 all about and what I know about it, Treaty here, and
4 everything I say I am going to use what I know about
5 Treaty.

6 Q. Dennis, what I am going to do is ask
7 you to inform the Board of your educational background
8 and your employment background, but when we get into
9 issues of the Treaty and your views, I'm also going to
10 try to ask Mr. Paul Beardy to be involved in that
11 discussion as well.

12 And perhaps you could give the Board at
13 this time an overview of your educational background
14 and your employment background.

15 A. (Through Mrs. Maxwell) Okay. The
16 schools that I attend were the residential school. I
17 started in Central Patricia and then Hillcrest, Grade
18 13, Lakehead University for four years...

19 MR. CROMARTY: Economics and political
20 science at the University.

21 MRS. MAXWELL: Do we have words for
22 those, economics and science?

23 (Through Mrs. Maxwell) A. When I first
24 started I worked with the courts there for the Native
25 people.

1 MR. CROMARTY: In 1972.

2 (Through Mrs. Maxwell) A. In 1972.

3 MR. CROMARTY: Maybe what I will do is,
4 I'll do it in English and then I'll translate it.

5 MRS. MAXWELL: Okay. Maybe that's
6 better.

7 A. What I did, I worked as a court
8 worker for a year and I helped set up the court work
9 program here in Ontario for another year in 1973.

10 After that I began work with Grand
11 Council Treaty No. 9 which is a forerunner of the
12 Nishnawbe-Aski Nation.

13 Between 1974 and 1988 I held various
14 capacities with the Nishnawbe-Aski Nation. I started
15 off as an economic development specialist, worked in
16 community development, I was managing the community
17 development program for the Nishnawbe-Aski Nation and
18 then I was elected Grand Chief from 1979 to 1981.

19 After that I worked for the
20 Nishnawbe-Aski Nation as commissioner of the
21 Nishnawbe-Aski Commission from 1983 to 1984, and the
22 intent of that commission was to look at the whole
23 issue of independent self-government or self-government
24 in the Nishnawbe-Aski Nation area.

25 From 1984 to 1988, again, I was the Grand

1 Chief of the Nishnawbe-Aski Nation.

2 Between 1988 and 1989 I was self employed
3 as a consultant mainly working with the aboriginal
4 groups, Nishnawbe-Aski Nation, the Windigo Tribal
5 Council, and a couple of other clients in Thunder Bay.

6 And since 1989 to the present day I am
7 the President and Chief Executive Officer of the
8 Nishnawbe-Aski Development Fund.

9 Maybe I can put in a little plug here for
10 the development fund. What it does is it provides
11 loans and loan guarantees to Nishnawbe-Aski business
12 people and to date we have approved over \$7-million in
13 loans to various businesses across the Nishnawbe-Aski
14 Nation and it's a successful fund that our Grand Chief
15 was able to start off when he was president of the
16 fund.

17 Q. Mr. Cromarty, were you a member of a
18 commission in northern Ontario?

19 A. Yes. While I was self-employed, I
20 was part of the Osnaburgh/Windigo Tribal Council
21 Justice Review Committee which was a committee that was
22 commissioned by the provincial government, Ministry of
23 the Attorney General and Solicitor General and also
24 commissioned by the Windigo Tribal Council and the
25 Osnaburgh First Nation.

1 And what that justice review committee
2 did was reviewed the administration of justice in the
3 four south Windigo communities of Osnaburgh, Cat Lake,
4 Slate Falls and New Saugeen.

5 (Translating answer into Oji-Cree)

6 Q. Mr. Cromarty, I would like you to
7 present to the Board your views on the history of the
8 importance of Treaty 9.

9 Perhaps you could do so by indicating to
10 the Board your first remembrances of the Treaty and
11 then deal with the development of your views on that
12 subject?

13 (Translating question into Oji-Cree)

14 A. I guess my first remembrances or
15 first knowledge of Treaty and the importance of Treaty
16 I guess was as a child I used to attend the Treaty
17 payments at Osnaburgh.

18 I was born in Pickle Crow which is a
19 mining town about 20 miles from Osnaburgh and it's
20 about, I would say about 200 miles northeast of here.

21 Anyway, when I was a child my parents --
22 my father used to work at the mine, he used to take the
23 day off in order for us to go receive our Treaty
24 payment at Osnaburgh which was 20 miles down the road
25 and we didn't have our own transportation at the time

1 so the family had to pay for the transportation to get
2 to Osnaburgh from our home.

3 But anyway, as I recall at that time the
4 day of Treaty payment was a very significant event for
5 our people. There was a great deal of significance
6 attached to it by our people in that there were two
7 RCMP officers that accompanied the party that was
8 making payments to the people, their annuity payment of
9 \$4 a head.

10 As well I recall that people used to get
11 x-rayed at the time. As well there was other
12 festivities planned around the Treaty payment. There
13 was usually a dance that was held after the Treaty day,
14 it used to be called Treaty day, it's called Treaty
15 day.

16 So for us it was an important occasion, a
17 reminder of the Treaty that was made with our people
18 back in 1905 and 1906. That's my early remembrance of
19 Treaty.

20 And then when I was going to university
21 around 1968, 1969 that's when I became more aware of
22 Treaty and aboriginal rights. There was a book
23 published around that time by the Indian Eskimo
24 Association of Canada dealing with the aboriginal
25 rights of Indian peoples and I read the book at that

1 time, I didn't fully understand it at that time because
2 it was written from the understanding of lawyers of
3 what aboriginal rights were.

4 And then at that time as well there was
5 the release of the White Paper on Indian and Canada
6 first relations in which the federal government
7 proposed a new policy on how they were going to deal
8 with the Indian people across the country.

9 So I would have been in my late teens at
10 that time and I became more aware of Treaty and
11 aboriginal rights as a result of that.

12 As well, in taking political science I
13 was interested in issues of politics and relations
14 between Indian people and the federal and provincial
15 governments.

16 From there, when I started working with
17 the Grand Council Treaty No. 9 in 1974, the whole
18 question of the Treaty and the rights of Indian people
19 arising from the Treaty and their relationship between
20 Indian people, the federal government and the Province
21 of Ontario were central issues that were also
22 discussed, that have been discussed over the years by
23 our people.

24 (Translating answer into Oji-Cree)

25 Q. Perhaps, Mr. Cromarty, you could

1 indicate to the Board the present talks and feelings on
2 the Treaty as they've developed over the past few
3 years?

4 (Translating question into Oji-Cree)

5 A. I guess the first point that I wanted
6 to make with respect to the Treaty itself is that it
7 gave special recognition to the Indian people of the
8 Nishnawbe-Aski area. Our Grand Chief has mentioned
9 that there are two treaties that affect the
10 Nishnawbe-Aski Nation area, Treaty No. 5 and Treaty No.
11 9.

12 If you consider Canada and all the legal
13 documents that are in existence in Canada, the
14 Constitution, and federal/provincial agreements,
15 treaties are documents that are only made with the
16 Indian people of this country, and that's why I feel
17 that there is, like, special recognition of the status
18 of Indian people and the rights that they have.

19 So they are - despite what the Quebec
20 people may say - I guess, Indian people are distinct
21 people of society within Canada.

22 Also, it's a very important document
23 because there is a major misunderstanding, let me
24 characterize it that way, a major misunderstanding
25 between the federal government, the provincial

1 government and the people of the Nishnawbe-Aski on what
2 transpired as a result of the Treaty.

3 According to the federal and provincial
4 governments, they will say that the Indian people
5 surrendered all their lands, which covers, if you take
6 both Treaty 5 and Treaty No. 9, it covers about 55 per
7 cent of the land mass of Ontario, and if you take the
8 position of the federal and provincial governments,
9 they will say that we surrendered all our rights, all
10 our titles, all our privileges that came from our
11 original possession of that land, and that the only
12 pieces of land that we have control over are the lands
13 that were set aside, the reserve lands that were set
14 aside, and within Treaty No. 5 there was land set aside
15 at the ratio of one square mile per family of five, and
16 when you take all of the original land mass that our
17 people had possession of or exercised their aboriginal
18 rights over, and when you compare it to what's
19 remaining under the control of Indian people - if you
20 want to call it control of Indian people under
21 reserve - it only represents .5 per cent of the total
22 land mass that our people used too occupy.

23 And there is mention -- the federal and
24 provincial governments will also acknowledge that there
25 is mentioned that our people were, according to the

1 Treaty, were allowed to continue practising their
2 traditional vocations of hunting and fishing and
3 trapping, but that also subject to regulation. Laws
4 could be passed from time to time by federal/provincial
5 governments dealing with those activities.

6 As well our peoples use of those lands
7 for those purposes could also be -- could be limited by
8 the designation of those lands for other purposes, such
9 as mining, forestry, or settlement or any other
10 purposes that the federal/provincial governments may
11 have wanted for our lands. So that is the
12 interpretation on the one side.

13 And on the other side, on the Indian
14 side, they are of the view that they have not
15 surrendered those lands, they did not surrender all
16 their rights and privileges and benefits that they have
17 received from the land.

18 The Indians perspective is that the land
19 was given to them by the creator and that the Indian
20 people were to derive their livelihood from the use of
21 those lands. Their understanding is that they agreed
22 to allow non-Indian people to have use of those lands
23 and natural resources. They did not turn them over the
24 control or the authority that they exercised over those
25 lands. They obtained that authority onto themselves.

1 As well, this whole question of the right
2 to self-government enters into the picture. Again, the
3 Indian people say that the right of self-government was
4 given to them by the creator, they exercise that right
5 over themselves as a people. They exercise that right
6 also over the lands and waters that was given to them
7 by the creator and through the Treaty process itself
8 they did not relinquish that right to govern themselves
9 or the lands or waters that were given to them by the
10 creator.

11 So what you have is a major dispute
12 between our people and the federal/provincial
13 governments respecting what transpired as a result of
14 the Treaty that took place.

15 You have to remember at the time, in 1905
16 and 1906, 1929, 1930, and in the case of Treaty 5, 1908
17 to 1910, you have to be aware at that time that our
18 people were not as fluent as Victoria Maxwell is in
19 speaking English and there would be a very limited
20 number of people, if there were any at all, that would
21 have a partial understanding of English.

22 You also have to take into consideration
23 that the Treaty documents, as it's written, it would be
24 very difficult for me, even with the education that I
25 have in political science, to explain the terms

1 especially dealing with the surrender of land rights,
2 to be able to explain that in Indian.

3 You also have to remember that there was
4 limited contact between our people and the non-Native
5 people at that time. So any understanding of -- there
6 wouldn't have been any understanding of how the federal
7 government was organized or how the provincial
8 government was organized, what responsibilities of each
9 party were in dealing with the commissioners.

10 They saw the commissioners as being
11 representatives of the Queen and that they were dealing
12 with the Queen when they were discussing the land.

13 The other major point that you have to
14 understand as well is that there was an intention by
15 the Indian people to live in peace, to live in peace
16 and harmony with the non-Native people that were coming
17 in. They were aware that there were non-Native people
18 in southern Ontario and they were aware that non-Native
19 people would be coming north and that some arrangement
20 would have to be made so that there would be peaceful
21 relations between Native people and Indian people and
22 non-Indian people.

23 And our peoples' understanding is that
24 that arrangement was made, that there was an
25 understanding that there would be peace and good

1 relations between our people and the non-Native people
2 coming into our territory.

3 As well, there were promises that were
4 made that were not reflected in the Treaty. If you
5 look at the terms of the Treaty, Treaty No. 5, what the
6 Indian people got for the supposed surrender of all
7 their rights was, each Indian received a gift of \$8,
8 they were supposed to receive \$4 annuity, each
9 individual Indian, as well a teacher was to be
10 provided, teacher or teachers were to be provided, a
11 school was to be provided, and educational materials
12 were to be provided.

13 But there were other oral promises that
14 our people can recall that are not reflected in the
15 Treaty document itself. There were promises to provide
16 assistance to our people in the field of health, in the
17 field of economic development, social assistance.
18 Those are not reflected at all in the Treaty document.

19 It was our peoples' understanding that
20 the Queen or the British monarch would treat Indian
21 people as if the Indian people were her children, that
22 the monarch would make sure that we were well cared
23 for, but that is not reflected in the Treaty document.

24 So there is these issues that have to be
25 resolved between our people at two levels of government

1 respecting the Treaty. And over the years we have made
2 efforts to gain acceptance of the aspirations of the
3 Nishnawbe-Aski people, as well to gain acceptance of
4 their understanding of what their aboriginal and Treaty
5 rights are. We have been involved in the
6 constitutional process right from -- even before
7 patriation.

8 We remember making presentation to
9 Premier Bill Davis at the time when he was the Premier
10 asking that this issue of Treaty and aboriginal rights
11 be dealt with in the Constitution and that Treaty and
12 aboriginal rights be protected.

13 As well, our Grand Chief made mention of
14 the declaration of Nishnawbe-Aski which was made in
15 1977, and that document lays out the philosophy, the
16 philosophy of life and the political philosophy of the
17 Nishnawbe-Aski people. It reiterated our peoples'
18 position that they have a right of self-government,
19 that they did not surrender their rights with respect
20 to the lands or their right of self-government under
21 Treaty.

22 In that document they said that the
23 Treaty has to be renegotiated. Also in that document
24 it says that all federal and provincial laws have to be
25 examined and all provincial and federal policies,

1 procedures have to be examined so that they can be
2 brought into conformity with the Indian peoples' views
3 of their aboriginal and Treaty rights.

4 That document was submitted to both the
5 federal and provincial governments. They were both
6 asked to respond to the declaration of Nishnawbe-Aski
7 and both governments to this day haven't responded to
8 the declaration of Nishnawbe-Aski.

9 Outside of Canada, we have also gone
10 outside of Canada, we have gone to Geneva to the United
11 Working Group on Indigenous Peoples asking that this
12 question of treaties and the treatment of Indian people
13 who have treaties with the federal governments be dealt
14 with fairly.

15 We made representations to the IVth
16 Russell Tribunal back in 1981 dealing with the rights
17 of the aboriginal peoples in the Americas. At that
18 time we made our concerns known to the IVth Russell
19 Tribunal with respect to the Treaty and our aboriginal
20 rights and our concerns with our relations with the
21 federal and provincial governments.

22 So the work has been ongoing to try to
23 reach some kind of understanding. As well, the Grand
24 Chief also mentioned the memorandum of understanding
25 which will deal with the right of self-government, an

1 arrangement with respect to self-government in the
2 Nishnawbe-Aski area. That was signed in 1985 or 1986
3 with both the federal and provincial governments, and
4 hopefully, you know, our aspirations with respect to
5 self-government will be dealt with fairly and those --
6 in that forum.

7 As well, I also mentioned we participated
8 in the constitutional process. We did get that limited
9 recognition of existing Treaty and aboriginal rights
10 put into Section 35(1) of the Constitution, but there
11 is no clear definition of what is being protected or
12 recognized and affirmed in the Canadian Constitution.

13 So there is more work that needs to be
14 done with the Canadian political system in dealing with
15 our aboriginal and Treaty rights.

16 (Translating answer into Oji-Cree)

17 Q. Mr. Cromarty, I was wondering if you
18 would assist me. I would like you, or Ms. Maxwell or
19 Ms. Mosquito, to ask Mr. Beardy for his comments with
20 respect to the Treaty.

21 Mr. Beardy is from Bearskin Lake, he is a
22 councillor there.

23 MR. MARTEL: Which Beardy?

24 MR. HUNTER: Mr. Paul Beardy, I'm sorry.

25 MR. P. BEARDY: (Through Mr. Cromarty)

1 He says, I would also like to express my thanks to the
2 Board for allowing Indian people to make their
3 presentations to you this morning.

4 What you're talking about affects the
5 life of Indian people and it's a very -- and for that
6 reason it's very important what you're doing here this
7 morning.

8 He stated that he began thinking -- he
9 began thinking seriously about the land and the
10 importance of land around the 1940s. What I observed
11 from the very beginning was that the Indian people
12 derived their livelihood from fur.

13 As well, he says, in 1952 he says that
14 the Indian people also began using their fish in
15 commercial fishing operations. He says the next thing
16 that he recalls is that in 1943 when children began
17 receiving assistance at that time. I'm not sure
18 exactly what that was, children's allowance.

19 MRS. MAXWELL: Family Allowance.

20 MR. P. BEARDY: (Through Mr. Cromarty)
21 Family allowance. At that the time, and that was great
22 a benefit, he says.

23 He says when he began considering land or
24 when he began observing lands in 1940, he said, that
25 the land was good and that the trees, the timber

1 resources were in a good state as well, but he says
2 there has been changes that he has observed in the
3 recent past and these changes respecting trees and
4 timber are a result of fires that have taken place
5 since that time.

6 I'm also glad that we are also
7 considering timber in this timber class assessment
8 hearing, he says. The reason why he's glad is that to
9 this time he hasn't seen Indian people benefitting from
10 the use of timber and that it is appropriate, he says,
11 that consideration be given to how Indian people can
12 derive a livelihood from the use of the timber
13 resources.

14 MR. HUNTER: Dennis, if I might just for
15 a moment. Could Rosie speak with you.

16 MR. CROMARTY: Yes.

17 ---Discussion off the record

18 MR. P. BEARDY: (Through Mr. Cromarty)
19 He says that he personally would endorse, I guess,
20 timber activity and Indian people benefitting from the
21 use of the timber resources provided that there were
22 proper controls and proper procedures put in place to
23 minimize any negative effects that would come from the
24 use of those timber resources and from timber activity.

25 He says, now turning to the question of

1 the Treaty and my viewpoints regarding the Treaty, he
2 says that there is not much that I could change to what
3 has been presented to you this morning.

4 He says, I personally did not observe the
5 Treaty signing, but what he knows is what he has heard
6 handed down from -- or what he has heard and what he
7 understands is that the Indian people were not made
8 fully aware or were not made -- did not fully
9 understand the text of the Treaty document itself.

10 He says, there were promises that were
11 made to our people regarding what support that they
12 would receive, what arrangements there would be with
13 respect to the land, but our forefathers signed the
14 document, he says, not knowing what the document said
15 with respect to the land being surrendered.

16 He says, what I have heard from the
17 elders with respect to the treaties is that the
18 promises that were made by the commissioners with
19 respect to looking after or helping the Indian people
20 would continue in perpetuity and the phrases that were
21 used were, as long as the grass grows and the rivers
22 flow and the sun shines.

23 There was a commitment by the British
24 monarch that this arrangement with our people would
25 continue forever, and he says that these Treaty

1 promises that were made by the commissioners are what
2 the Indian people are abiding by. They have not
3 relinquished or strayed from those Treaty promises that
4 that were made and, I guess, the efforts that I
5 mentioned this morning are efforts to get them
6 recognized and respected.

7 He also says that I see or I realize
8 that, I guess, more and more the views of Indian people
9 are being accepted with respect to their treaties and
10 with respect to their views on the land and, he says,
11 that this is good, this acceptance of the views of
12 Indian people.

13 He says that this is all he has to say
14 with respect to the subject of Treaty and Treaty
15 rights.

16 He says that he had come fully prepared
17 to discuss timber and timber harvesting practices and
18 the like, but he knows that, I guess, there was this
19 arrangement made to shorten our presentation, so he
20 will leave it at that.

21 MR. P. BEARDY: Thank you.

22 MADAM CHAIR: Thank you very much, Mr.
23 Beardy.

24 MR. HUNTER: Q. I think, if we might --
25 Dennis, did you have any additional -- I'm sorry. Do

1 you have any additional comments?

2 MR. CROMARTY: A. Yes, just maybe to
3 wrap up, I would like to reflect on our people, the
4 Nishnawbe-Aski ski people.

5 I have neglected to mention that I've
6 been through all the communities pretty well of the
7 Nishnawbe-Aski Nation. Of the 45 or 46 communities
8 there's only two communities that I haven't visited in
9 my years of work and I converse quite well with the
10 Oji-Cree, the Ojibway and the English-speaking people
11 of the Nishnawbe-Aski Nation.

12 And our people are a generous people,
13 they're a peaceful people, they're kind hearted, and
14 what they would like to do - and they also have a great
15 deal of respect for governments, federal and provincial
16 governments, and great respect for the Crown - but I
17 think what they want to achieve is a satisfactory
18 arrangement between themselves, the Canadian society
19 and the Province of Ontario as well as with the private
20 sector, people that may be involved in economic
21 development in the north, whether they're forestry
22 companies or people involved in tourist development.

23 They have a great desire to have a good
24 understanding, a good working relationship with the
25 respect of Canadian society and I think that is the

1 goal that they're trying to achieve in trying to
2 resolve some of these differences of opinion that may
3 exist between the federal and provincial governments
4 with respect to their treaties and aboriginal rights.

5 Our people are also saying that they want
6 to be able to control their own destiny, they want to
7 take the responsibility for themselves to provide for
8 all their needs, their economic, their social, their
9 cultural, their -- whatever kind of needs, but in order
10 to do that, there has to be a resolution to this
11 dispute about the lands in northern Ontario.

12 They also have to have an arrangement so
13 that they can also benefit from resource development,
14 whether it's by way of sharing of royalties or whether
15 it's sharing in taxes, taxing of individuals and
16 resource companies, whatever arrangements are
17 necessary, this is what they are striving for.

18 And as much as possible, our people would like to have
19 as much control over their lives and over their lands.

20 I think that there is a recognition that
21 some understanding has to be reached with the Province
22 of Ontario about the exercise of control over lands,
23 wildlife in northern Ontario. You have to take into
24 consideration the aspirations of our people. To be
25 self-sustaining, they have to have access to natural

1 resources.

2 I guess these questions will not only
3 be -- will not only involve the Province of Ontario but
4 it also will involve the federal government because
5 some of the promises that were made to our people are
6 promises that were made on behalf of the federal Crown
7 and right now we don't have an avenue available to us
8 to address concerns that we have with respect to the
9 promises made by the federal Crown to our people and to
10 deal with the questions of self-government and to be
11 protected under a new Treaty.

12 So those questions have to be addressed
13 by the Government of Canada.

14 And up to this time they have been
15 unwilling to re-examine treaties and where existing
16 treaties are in place, they have been unwilling to
17 re-examine treaties and to establish new relationships
18 that could be of benefit both to the Government of
19 Canada, Indian people as well as to the proponent.

20 So I just wanted to conclude by that
21 statement. So there's a lot of work still to be done,
22 but the good will is there by our people to resolve any
23 disputes that we may have with either private
24 individuals or the governments.

25 And, again, I would like to thank you for

1 this opportunity to speak to you regarding my
2 understanding of the Treaty.

3 MADAM CHAIR: Thank you very much, Mr.
4 Cromarty.

5 Mr. Hunter?

6 MR. HUNTER: Sorry.

7 ---Discussion off the record

8 MR. HUNTER: What I was going to propose
9 is, if the court reporter can bear with us, maybe if
10 you want to take five minutes, and then I believe we
11 can -- Mr. MacKay and Mr. Fox will take no more than a
12 half an hour, if you wanted to break for lunch, and
13 then we will resume after lunch with the community
14 witnesses.

15 Is that fair?

16 MADAM CHAIR: Yes, we will take a short
17 break.

18 MR. HUNTER: Oh, I apologize. Mr. Loon
19 and Ms. Crane are here from Slate Falls.

20 DONALD LOON,
21 LORRAINE CRANE, Affirmed

22 ---Recess taken at 11:20 a.m.

23 ---On resuming at 11:30 a.m.

24 MR. HUNTER: Mrs. Koven, Mr. Martel, what
25 I would propose is that I will ask Mr. McKay and Mr.

1 Fox to give you an overview of their education, first,
2 and then their employment history, involvement, and
3 then the two of them can basically share the next set
4 of issues, decide who would be best and more
5 comfortable answering certain questions.

6 I think both have been intimately
7 involved in the resource development area within the
8 Windigo Tribal Council and are clearly both capable in
9 terms of answering any of the questions.

10 Q. So, Frank, can you sort of give the
11 Board an overview of your educational area and perhaps
12 summarize it in translation, if you're comfortable.

13 MR. MCKAY: A. Okay.

14 Q. I apologize. Do you have any opening
15 comments before I -- do you have any opening comments?

16 A. Yes.

17 So I guess you want me to speak in Indian
18 first.

19 Q. Whatever you're most comfortable
20 with.

21 A. (Translating answer into Oji-Cree)

22 I am just going to -- I just wanted to
23 say to the Board that we are glad to be given an
24 opportunity to present our concerns our questions that
25 we had in relation to timber management and planning

1 that's going to occur within the area of the
2 undertaking.

3 Our communities that I represent, the
4 Chiefs and councils of our area, have given our
5 organization the mandate to be involved in this
6 process, to raise the awareness of our Native
7 communities, their lifestyles and their dependence on
8 the lands and resources that they use as a result of
9 how the creator has intended for us to live as Indian
10 people.

11 We have been in the timber management
12 processes, it affects every area of our lives, Native
13 communities, so they had concerns. We tried to explain
14 the whole process and how it works and how it could
15 affect our people.

16 One of the Chiefs here, that was going to
17 be present that couldn't be here wanted to present some
18 of his concerns in relation to all effects, these
19 resource activities that happen within our area, how it
20 affects our trapping, hunting and fishing, our
21 traditional lifestyle in our communities.

22 We were given a mandate from our Chiefs
23 in relation to how our involvement would be in this
24 hearing process. We consulted with them and identified
25 the recommendations, the terms and conditions that we

1 had an agreement with them and we are in support of
2 that agreement that was signed.

3 We feel that this agreement, this
4 mechanism, this mechanism or process that we
5 recommended would address -- would be used as a means
6 of addressing and raising the awareness of the
7 government agencies of our way of life, of how it
8 affects -- how those resource areas activities affect
9 our way of life.

10 So it's with that mandate that the Chiefs
11 have given our organization to pursue this area, that
12 we have supported this agreement I am talking about,
13 and that we hope that the beginning of this process
14 will begin a working relationship and the communication
15 that is required to take into consideration our
16 concerns and also what the province and industry are
17 trying to do for the benefit of all.

18 That's my opening comments.

19 MADAM CHAIR: Thank you, Mr. McKay.

20 MR. HUNTER: Thank you.

21 Q. Charles, do you have any comments?

22 MR. FOX: A. Thank you very much, Mr.

23 Hunter.

24 I guess Madam Chair, Mr. Martel, ladies
25 and gentlemen, my initial comments are one in humility

1 I guess and one of acknowledging the opening prayer by
2 the Elder, Isaac Beardy, that all sessions and all
3 meetings that we pray to our creator and we place him
4 before us that he be present with us during our
5 deliberations. I acknowledge that very humbly.

6 Madam Chair and Mr. Martel, for me to be
7 here to be able to speak to you and to the people in
8 this room gives me a sense of appreciation and a sense
9 of accomplishment as an individual.

10 I go back to 1984, Mr. Hunter and Mr.
11 McKibbin, when we started to cross paths, when this
12 whole process started. At that time it was to deal
13 with the Dona Lake mine, I believe -- I'm mistaken on
14 that. It was the Musselwhite project that we were
15 reviewing right around Weagamow Lake that we initially
16 started out to look at, and one day flying back from
17 that site we flew over Pickle Lake and lo and behold
18 there was a couple acres of clear territory and that
19 was the beginning of our interest in the Dona Lake
20 mining project, and they had already expended something
21 like 10- or \$12-million in the development of that
22 particular project. So needless to say, we started to
23 focus on the Dona Lake mining initiative.

24 What transpired after that was meetings
25 with community members, Chiefs and councillors within

1 our communities, and when I say that I empathize with
2 the Board and with the legal counsel and various people
3 who have had to put up with Mr. Hunter over the last
4 few years, believe me I know when I say that, because I
5 had to translate are two days -- two full-day sessions
6 with him with our community membership and our
7 leadership on the whole environmental assessment
8 process. It was very dry and very humorless, but
9 nevertheless it had to be done, but that was the
10 beginning of that process back seven years ago. And
11 eventually that led us to where we are today, to become
12 involved in timber assessment process.

13 And when I appeared before the Board in
14 1988, I stressed to the Board the need that we're
15 entering this process with the intent of dealing with
16 the technical issues of our participation and our
17 involvement in the whole Timber Class Environmental
18 Assessment process, and that we were not going to deal
19 with the issue of our Treaty and aboriginal rights, and
20 we have maintained that, and I think you can appreciate
21 by the opening comments, by the opening words of
22 Messrs. Cheechoo and Cromarty and Beardy, that the
23 Treaty to us and our aboriginal rights are sacred, it
24 is a relationship that we have with our creator and it
25 is our understanding that those rights are not

1 negotiable. It is our understanding that those rights
2 are best dealt with through political and legal forums,
3 although I do qualify legal because I have my own
4 interpretations of the legal system. I don't have very
5 little faith in the legal system as it presently
6 exists, but nevertheless when I appeared before you in
7 1988 those were my opening comments and those were our
8 opening positions, and I would like to think to this
9 day that we have maintained that, that we are here to
10 deal with the environmental assessment process of a
11 timber class assessment hearing.

12 I thank you very much for the opportunity
13 to be able to be present today, to be able to speak to
14 the Board, and to be able to give my views.

15 And, as I stated originally, is certainly
16 a sense of appreciation for this leadership giving me
17 the opportunity to be able to appear before you, and it
18 is a sense of accomplishment as well, because we
19 started this whole exercise seven years ago and to be
20 able to reach an agreement with the Province of Ontario
21 and the forestry sector in terms of dealing with our
22 terms and conditions of our participation in the timber
23 exercise, is certainly a sense of accomplishment for me
24 as an individual.

25 So I thank you very much.

1 (Translating answer into Oji-Cree)

2 MR. HUNTER: Excuse me, one moment.

3 I think sometimes there's not much point
4 in going through -- both Mr. Fox and Mr. McKay are
5 content with what they have said to the Board.

6 Mr. McKay has one additional statement to
7 make with respect to why Windigo has been so involved
8 in this area and both Mr. Fox and Mr. McKay would feel
9 that that would complete their presentation to the
10 Board.

11 Q. Mr. McKay?

12 MR. McKAY: A. So I skip my educational
13 background.

14 Q. Yes, if you want to -- yes.

15 A. Well, anyways in terms of the
16 organization I work for, Windigo Tribal Council, we
17 serve seven communities, who the chiefs of those seven
18 communities comprise of the Board of Directors, they
19 provide the direction, policy areas that we want to
20 deal with in various areas.

21 One of the major areas that our
22 communities have been involved in is in resource
23 development, mainly because of the fact that our
24 communities are situate in areas where a lot of
25 activities take place, resource activities, mining

1 activities, timber, harvesting and so on, and tourism
2 and all the other economic development activities that
3 are happening in the north is coming toward our
4 communities and is touching on them.

5 And anyways we've attempted to sit down
6 and negotiate certain conditions with the
7 federal/provincial government and also with the mining
8 companies, if we're dealing with the mining company.
9 We have concluded the Dona Lake Agreement, as Charles
10 Fox mentioned in his presentation, we've also concluded
11 the Golden Patricia Agreements, and in those agreements
12 we went to introduce a set of negotiations with a clear
13 set of conditions that we wanted to address. We wanted
14 to ensure that our communities' concerns were addressed
15 in these negotiations.

16 We came up with five or six points that
17 we answered to make sure that we can negotiate. And
18 one of the areas that we negotiated were employment and
19 training. We wanted to ensure if a mine was going to
20 be located within our community area, traditional area,
21 we wanted to ensure that our people benefitted from
22 those resource activities.

23 We wanted to ensure too that there was
24 employment for our people and there was training
25 provided to ensure that they can adequately handle the

1 workload that was in that area.

2 The other area is environmental
3 protection, which in the current policies and
4 regulations by the provincial government and federal
5 statutes that all those concerns in relation to
6 protecting the environment was taken into
7 consideration.

8 And if a mine was located within the area
9 of our trappers, that adequate compensation would be
10 given as a result of them losing part of their income
11 as a result of the mine.

12 And the other area we are negotiating
13 also is to ensure that we be informed of any
14 development within our area, that we be kept informed
15 of any activity that is going to take place within the
16 traditional areas of our communities and that an
17 adequate mechanism be established to address any
18 concerns that might arise as a result of that activity.

19 So those are the things, issues, points
20 that we go into negotiation when we go into resource
21 mining agreements, and those occurred in the Dona Lake
22 Agreement and also in Golden Patricia.

23 And one more point that I forgot to
24 mention is that we also try to increase being involved
25 in any business opportunity that might arise as a

1 result of mining activity. We want to provide any
2 service to that activity we can, obtain involvement of
3 our people. So those are the areas that we have
4 achieved in those two agreements.

5 In the current discussions, we have the
6 Musselwhite Agreement that Charles Fox has mentioned
7 and we have two agreements right now, two agreements
8 that we have right now on the table, one that we have
9 signed is called the Musselwhite Planning Agreement and
10 this involves setting a mechanism whereby our people
11 can get involved within the area, the traditional area
12 that any activity that occurs that we would be notified
13 and that this board that hopefully will be set up in
14 the planning agreement would address and know about any
15 activity that is going on there.

16 So that's a big achievement for those
17 bands that are involved in that area, that they get to
18 have a say and also be involved in any decisions that
19 will affect traditional areas. So that's the one
20 agreement.

21 Right now we are also trying to conclude
22 the Musselwhite General Agreement which also includes
23 all those points that I discussed in regards to Dona
24 Lake and also the Golden Patricia. So that's the thing
25 I just wanted to bring about.

1 And also our objective in this
2 organization has always been that we wanted to be
3 involved in anything that happens within our area. It
4 seems to me that all the time that any resource
5 activity happens in our area we always come to a
6 conflict situation with either the company or the
7 regulation that's been applied there, and we want to
8 establish some sort of an effective way of resolving
9 those issues, those conflicts that seem to always
10 occur.

11 We want to sit down and negotiate where
12 we can benefit from these activities, where our people
13 can also benefit from those activities and be
14 comfortable with the arrangement, a suitable
15 arrangement can be made.

16 And we also want to have a process, such
17 as one similar to the ones that we concluded in this
18 agreement, where our people are involved and they're
19 fully informed, they understand the procedure, they
20 have translated versions of notices that have been sent
21 to them, so that they would be able to see what's going
22 on.

23 And I think that is one of the areas that
24 we're very glad about that we have achieved within this
25 forum, this agreement.

1 I think that's it.

2 (Translating answer into Oji-Cree)

3 Thank you very much.

4 MADAM CHAIR: Thank you, Mr. McKay.

5 MR. HUNTER: I don't believe there's any
6 further comments. I might suggest we break for lunch
7 and return at one o'clock, if that's possible?

8 MADAM CHAIR: All right, we'll do that,
9 Mr. Hunter, we'll be back at one o'clock.

10 MR. HUNTER: Thank you.

11 ---Luncheon recess taken at 12:00 p.m.

12 ---On resuming at 1:05 p.m.

13 MADAM CHAIR: Please be seated.

14 MR. HUNTER: Mrs. Koven, Mr. Fox reminded
15 me at lunch that he did have a couple of additional
16 comments that he wanted to make, and I was a little bit
17 pre-emptory in concluding the session.

18 Q. Mr. Fox?

19 MR. FOX: A. Thank you very much, Mr.
20 Hunter.

21 In concluding my remarks, I don't think
22 there's very much I can say to add on to the whole
23 question of our Treaty and aboriginal rights and our
24 personal interpretation of that, however, I would like
25 to state that as an aboriginal person myself I take

1 great pride and I have a very strong and firm belief in
2 the interpretation of our treaties and our aboriginal
3 rights that our elders pass on to us and I sincerely
4 believe in my heart, and it's probably true in all the
5 hearts of our youth, that they too believe in their
6 Treaty and aboriginal rights, that we are born with
7 that belief and with that concept.

8 Notwithstanding the issue of Treaty and
9 aboriginal rights, I would like to state that the
10 process that we have entered into -- as past Chairman
11 of the Windigo Tribal Council and as past Deputy Grand
12 Chief of Nishnawbe-Aski Nation, I have personally
13 always advocated, as an individual, that the course of
14 negotiation to resolve dispute, to resolve differences
15 with the non-Native society is the route to go.

16 And it's true when Mr. Cromarty says are
17 people are peaceful people, that is true, but we do
18 have elements in our society too who get frustrated,
19 who do look at confrontational types of approaches,
20 such as witnessed at Oka, but I would like to think and
21 I would like to sincerely believe that with the
22 examples that we have set with the Dona Lake Mining
23 Agreement, with Golden Patricia, with the terms of
24 reference that were concluded in this exercise, and
25 with the ongoing negotiations under the memorandum of

1 understanding, that the First Peoples of Nishnawbe-Aski
2 Nation with good will on their part, and if there is
3 good will from both the provincial and federal
4 governments, that negotiation will be the route to go
5 to resolve any concerns, any differences, any disputes
6 that we may have.

7 And I would like to encourage all the
8 people present and people that may hear me that the art
9 of negotiation is by far the most achievable mechanism
10 in my mind at the present moment.

11 The fight will go on with legal battles
12 over Treaty and aboriginal rights, the political forums
13 will go on with Treaty and aboriginal rights, but the
14 living conditions of Indian people and their
15 participation to try and better their environment,
16 socially and economically, has to be dealt with, and at
17 this point in time the best route to do -- or to go
18 with that approach is to negotiate agreements and put
19 aside the issue of politics because the needs of Indian
20 people are apparent in the north.

21 (Translating answer into Oji-Cree)

22 Q. Thank you, Mr. Fox.

23 MR. HUNTER: What I would propose to do
24 now is introduce you to Ms. Mosquito and Mr. McKibbon,
25 principally to provide you with the background

1 associated with the community activities that are
2 associated in Windigo in terms of preparing for this
3 hearing and to also present a video that was produced
4 for the purposes of informing the communities of this
5 process.

6 And the first step in that exercise, I
7 would like to introduce Ms. Mosquito to the Board and
8 ask her to briefly outline for you the nature of her
9 involvement with the community and with this assessment
10 process over the course of the last year and a half.

11 MS. MOSQUITO: Year or so.

12 Okay. I guess to begin with I would like
13 to extend my appreciation to the Board for allowing the
14 opportunity for Windigo and Nishnawbe-Aski Nation to
15 meet with you and to present our concerns with respect
16 to the proposed timber management planning by the
17 Ministry of Natural Resources.

18 I was retained by the Tribal Council late
19 last summer to initiate the community consultation work
20 on the Class Environmental Assessment, and it would
21 have been in August. What I proceeded to do was --
22 what I did initially was to review the pertinent
23 documents starting with the Class Environmental
24 Document itself. From there what I did was prepared --
25 one of the first things I did was to prepare the video

1 that we will be showing later at the end of my part in
2 this presentation and, at the same time, what we did
3 was produce brochures which basically contained the
4 same information that is shown in the video, the video
5 information tape.

6 Now, upon completion of those two
7 informational tools, which we use as informational and
8 educational documents or tools to our communities, we
9 forwarded them and, in addition, what we did was we
10 arranged individual meetings with the individual
11 councils and members of the individual communities.

12 Now, the four communities that we focused
13 on were Osnaburgh, New Slate Falls, Saugeen Nation and
14 Cat Lake. The reasons for that were that two of the
15 communities, Osnaburgh and Saugeen, I believe are in
16 the area of undertaking, while the two have traditional
17 areas that are included in the area of the undertaking.

18 As Frank stated this morning, the
19 decision, however, to enter this process was agreed to
20 by the Chiefs as a whole, that is the seven Chiefs
21 within the Tribal Council, Windigo Tribal Council.

22 I guess basically briefly that it the
23 main or the main duties that I have performed or the
24 tasks that I took in endeavoring to inform the
25 communities and to obtain input and feedback from the

1 members and their respective Councils.

2 MR. HUNTER: Q. Ms. Mosquito, did you
3 participate in other parts of the assessment process?

4 A. Yes, I did. I was involved in the
5 draft of the terms and conditions that were presented
6 to the Board and subsequently resulted in the agreement
7 with the MNR and OFIA.

8 I was also involved in the negotiations
9 that led up to that agreement. I think there was -- I
10 guess, again, those are the three main areas that I was
11 involved in in relation to the community consultation
12 work and obtaining feedback from the communities.

13 Q. Mr. McKibbon, can you identify for
14 the Board your participation in the community with
15 respect to the assessment process?

16 MR. McKIBBON: A. I attended several of
17 the community consultation sessions with Rosie and
18 those sessions were important for a number of different
19 reasons.

20 First of all, they gave us a chance to
21 listen to the opinions and the views of community
22 members with respect to timber management specifically
23 and resource development generally, and that
24 information was very important in terms of fashioning
25 the conditions which you have before you right now. We

1 used those consultations to fine tune our understanding
2 of what relief was being sought.

3 It was also an opportunity to explain to
4 the community members what was occurring at this
5 hearing and to give them some sense of the issues, and
6 eventually we were able to identify witnesses who
7 wished to come forward and make presentations to you
8 today and to fashion their witness statements in
9 consultation with them.

10 I think that is it.

11 MS. MOSQUITO: (Translating answers into
12 Oji-Cree)

13 MR. HUNTER: Thank you.

14 MS. MOSQUITO: I guess -- okay, I guess
15 now what we're going to be doing is to present the
16 videotape that we prepared.

17 The videotape is going to be in Oji-Cree.
18 I think we have made available copies of the script to
19 the Board and to the other parties as well.

20 MADAM CHAIR: We will mark the exhibit as
21 1960.

22 ---EXHIBIT NO. 1960: Video prepared and submitted
23 by NAN and Windigo Tribal
Council.

24 MADAM CHAIR: Mr. Hunter?

25 MR. HUNTER: Yes.

1 MADAM CHAIR: You're not submitting
2 written witness Panel No. 3?

3 MR. HUNTER: No.

4 MADAM CHAIR: Do you want to make the
5 English translation of the video an exhibit as well?

6 MR. HUNTER: No, that's part of the
7 witness statement, so the presentation by Ms. Mosquito
8 will be our evidence on this matter.
9

10 VIDEO PRESENTATION

11
12 MR. HUNTER: Q. What I would suggest is
13 I ask Ms. Mosquito to give a summary of the
14 presentation.

15 MS. MOSQUITO: A. I guess briefly, for
16 the benefit of those who don't have a copy of the
17 script in front of you, I will outline the essential
18 points that we endeavored to cover in the information
19 video.

20 One of the primary functions was to
21 explain what a Class Environmental Assessment is. We
22 attempted to explain how it will affect the people and
23 our way of life.

24 We noted that the Ministry of Natural
25 Resources is responsible for the management of

1 resources, as it is today, and that in the management
2 of resources one of them is the timbering resources and
3 under timber management there are the issues of
4 harvesting, ensuring access to the timber resources,
5 regeneration, et cetera.

6 We also identified other parties who are
7 also interested in, or who have an interest in the
8 timber resources, other parties like the timber
9 industry, the lumbering industry, tourist operators,
10 anglers and hunters, environmentalists and last, but
11 not least, but the most important, is the Nishnawbe of
12 Windigo and the Nishnawbe-Aski Nation.

13 In order to illustrate or to explain what
14 the Class Environmental Assessment, what is involved in
15 the Class Environmental Assessment we provided an
16 example of the airport, the design, I guess the design
17 of class that was accepted, and basically it was one
18 design that was accepted and that's what you see up in
19 the northern communities, or in those communities which
20 have an airport, modified to some extent but basically
21 still is one class of design.

22 From there what we did was -- then from
23 there what we did was explained that should the
24 Ministry of Natural Resources' proposed timber
25 management plan is accepted by the Board, this would be

1 in force for all the hundred or so forest management
2 units that are outlined in the undertaking.

3 And then we went on towards the latter
4 part of the video and explained that Windigo Tribal
5 Council and Nishnawbe-Aski Nation had rejected MNR's
6 proposed timber management plan because it doesn't
7 consider the rights and needs of Native communities and
8 Native people.

9 And this is what led into the development
10 of the terms and conditions and I guess development of
11 these terms and conditions were especially important
12 for those communities who are near or within the area
13 of the undertaking and throughout Nishnawbe-Aski
14 Nation, including Windigo Tribal Council.

15 And then lastly what we did in the video
16 was to propose a number of ways in which we can respond
17 to or ways in which we can present our concerns, and I
18 guess our concerns to the Environmental Assessment
19 board.

20 Q. Thank you.

21 Dennis, now I would like to spend some
22 some time with the community witnesses who have been
23 very patient. And the first person I would like to
24 introduce is John Nawageesic who is sitting beside
25 Dennis Cromarty and his wife Mary who participated

1 extensively in community meetings with Ms. Mosquito and
2 Mr. McKibbon.

3 And, Dennis, if you can assist us in
4 translation.

5 MR. CROMARTY: A. By the way, I have a
6 wife Helen but she is not here. She's on her way.
7 As long as you don't get them confused.

8 Q. I'm sorry, Mary. I apologize.

9 Mr. Nawageesic, where were you born and
10 when were you born?

11 MR. NAWAGEESIC: (Through Mr. Cromarty)

12 A. Mr. Nawageesic said that he's been
13 raised in the New Osnaburgh area all his life.

14 He said he was born in the winter under
15 trapping grounds and his trapping grounds were a little
16 ways beyond Pickle Lake and he gave an Indian name for
17 the area where he was raised, and he was born -- or
18 where he was born, and he was born in 1913.

19 Q. What is Mr. Nawageesic's occupation?

20 A. He says that at the present time he's
21 not fully employed. He says, as I got older I've
22 retired and I've been retired for three years, and he
23 says consequently all I do now is I sleep.

24 Q. I'll try again. What was his
25 employment before he retired three years ago?

1 A. He said that as a child, he said, he
2 started to learn how to hunt, but he says as a child I
3 wasn't a very -- I wasn't too skilled at hunting,
4 fishing, he said as a child, but I can tell you that
5 hunting was good back then, people could support
6 themselves through hunting, and he says that even if
7 there was an occasion where there was a day that people
8 were out of food, people could count on being able to
9 get food the following day, whether that food be in the
10 way of a partridge or a moose, he says.

11 He says that his parents were able to
12 provide for their family through hunting, hunting of
13 game. He says, although there was a store at the time
14 when he was growing up, he said, at that time Indian
15 people didn't have enough financial resources to get
16 their food through the store.

17 And as well, he says, at that time the
18 population was quite large, he says. There were about
19 300 people, I guess, living around that area that he's
20 talking about at that time.

21 He also -- all he wanted to relate with
22 respect to that question about hunting, his comments
23 regarding hunting is that he wanted to make mention
24 next of flooding, the flooding of the lake, Lake St.
25 Joseph. He says that there was severe disruption of

1 the grave sites at that time because of the flooding
2 and the graves.

3 THE point that he was making was that the
4 grave sites were severely affected. I guess the actual
5 coffins and the bodies in coffins were raised from
6 their sites as a result of the flooding that he's
7 talking about and that I guess there was damming of the
8 lake at that time.

9 He says he wants to make his comments
10 brief.

11 Another point that he wanted to make was
12 to make a comment about the life of the Indian people
13 before the white man came. He says, before the white
14 man came the deaths among the Indian people only
15 resulted from illnesses or sicknesses that arrived in
16 the community.

17 As well, he says, the life changed when
18 alcohol was introduced to our community, and then when
19 roads were -- when the road was built by Osnaburgh, he
20 says, that there is no respect even today for Sunday,
21 for Sunday being a holy day. He says, that even though
22 that there is, Sunday drinking and the transporting of
23 alcohol into our communities takes place on Sundays.
24 There's no respect for that day.

25 He wanted to also make mention of the

1 trapping and the trapping regulations that have come
2 onto the scene. He says that the Ministry of Natural
3 Resources imposed, I guess, trapping regulations on our
4 people. One of the regulations was that they set a
5 season limit of one month for us to be able to kill a
6 beaver.

7 As well, he says, that there were lands
8 that were designated for the use -- we were told for
9 the use of Indian people. I guess, he's making
10 reference to the trap lines. I don't know the trap
11 lines he's talking about. We were told that these
12 lands were being designated not to restrict our right
13 to hunt and trap on those lands or to take fish, but
14 rather those lands were designated so that the
15 non-Native people would not make use or not make use or
16 not intrude upon those lands that were designated for
17 us and I feel that the -- well, the present Ministry of
18 Natural Resources has not been truthful to us on this
19 matter.

20 As well, non-Native people are allowed to
21 make use of our lands, whether it's for commercial
22 fishing or for tourist fishing or even to hunt moose,
23 and what we find is that when non-Natives make use of
24 either fish or game that there's evidence of the fish
25 or game on the land, that they just kill either the

1 fish or the game for sport and they leave the carcasses
2 there.

3 He says, what he's relating to is not
4 only his impressions but also what he actually sees as
5 an Indian person. He says, maybe the problem with
6 respect to the moose is that when the non-Native hunter
7 hunts the moose and when he shoots the moose, maybe all
8 he does sometimes is just injure the moose without
9 killing it and doesn't go through the process of I
10 guess, tracking down the moose and killing the moose
11 and that maybe this can be part of the explanation why
12 there are these carcasses that are found in the bush.

13 He says he wants to make a few comments
14 regarding timber management. He says that he's not
15 thoroughly familiar on what is being discussed or what
16 is being proposed with respect to timber management so,
17 therefore, he says, he can't really fully address that
18 question.

19 Although, he says, he has some concerns
20 with respect to pesticides. He has particular concerns
21 with the effects that pesticides will have on animals
22 and animal life.

23 He says that he has observed Ontario
24 Hydro's lines and their use of pesticides to kill
25 vegetation but, he says, they've -- I feel that they

1 have had an effect on the rabbits in the area.

2 In the past there used to be an abundance
3 of rabbits but now, he says, there isn't as many
4 rabbits as there used to be in the past.

5 He said that he wanted to keep his
6 comments brief. As well, he said he wanted to express
7 his gratitude to be able to express these thoughts and
8 these observations that he sent to the Board.

9 And, again, he says, thank you very much.

10 Q. Dennis, does Mrs. Nawageesic have any
11 comments she would like to make?

12 MRS. NAWAGEESIC (Through Mr. Cromarty)

13 A. Of course, she says.

14 She says she will read to you what she
15 knowl, as well what she knew I guess as she was growing
16 up from being a child, and she says she's not very
17 familiar with the use of microphones, so...

18 Okay. What she wants to do is she wants
19 to relate her experiences, her life in the past. She
20 says that she grew up living off the land and she says
21 that she didn't encounter white man for a long time,
22 and she says this is why I'm still an Indian here. I
23 guess she hasn't been assimilated yet.

24 She says that as they were growing up,
25 the life that she's talking about, she says, that they

1 were able to derive a good life out of it, she says,
2 because of the way that they had there was enough game
3 to support the family.

4 She said, we only had a father and there
5 was four youngsters that belonged to that family and we
6 were raised on the land. As well, she says, that we
7 didn't have -- or we didn't see other Indian people in
8 the winter while we were on our trapping grounds.

9 We didn't have tea, I guess the only
10 kind of liquid that they had was the broth that they
11 got from cooking of game.

12 I guess, going -- she didn't, I guess,
13 live in a settlement or the Indian settlement there in
14 Osnaburgh until she was an adult when she was married
15 and when she and her husband had children.

16 She says that she was able to raise the
17 three children that she had from her first husband but
18 I guess her first husband passed away and she raised
19 the children herself.

20 She says that when my children grew
21 into -- finished growing, she says that we returned
22 back to our hunting and trapping way of life. I taught
23 them all the skills that I had learned, and she says
24 that she taught all her children but that only one of
25 the four is, I guess, well an expert in hunting and

1 trapping.

2 She says that on occasion, I guess, they
3 were trapping with the son that is expert in hunting
4 and trapping and he says that on one occasion, I guess,
5 they encountered some difficulties with MNR. It sounds
6 like they were caught with something.

7 So, she says, consequently the spring we
8 didn't go back out on the land because we were scared
9 that we would get charged again, or...

10 Okay. She's relating that encounter that
11 they had with MNR. I guess she had her game buried
12 under the snow and, she says that -- I guess, it was
13 close to her home, and I guess she was returning at
14 that time and she says that the MNR officials were at
15 the scene and, she says, I was even returning with some
16 additional game, she says she had beaver as well as
17 some geese and, she says, there they were, the MNR
18 officials, digging away, she says, just like dogs.

19 Well, she said that because of that
20 incident that they had with MNR officials, they were
21 afraid, I guess, to hunt and to go back trapping.

22 She also related, you know, what happened
23 is that the incident involved a non-Native person
24 coming to them and asking them if they had fish, and
25 she said: No, we don't have any fish.

1 And he asked: Well, do you have -- she
2 asked or he asked: Do you have any geese? And she
3 said: Yes, we do, we do have some geese. So she says
4 that he gave them two geese and the gentleman paid \$20
5 for those geese and that's I guess where their
6 difficulties arose.

7 That's all, she says, that I have to say
8 with respect to that. She said that is all the
9 comments that I wanted to make with respect to the MNR
10 officials.

11 With respect to timber and the cutting of
12 trees and timber, she says that she has some concerns
13 about -- she would have some concerns about the cutting
14 of trees in their area because, she says, we use the
15 woods, that the trees provide for fire and, she says,
16 if we don't have the woods for fire, she says, we will
17 be cold in the wintertime.

18 With respect to the questions that the
19 people in front of her are asking about the land uses
20 of the people, she says, with respect to hunting,
21 fishing and trapping, she says that we trap in the
22 springtime, she says, and then we leave it over the
23 summer and then we trap again in the fall.

24 Yes, there is one additional comment, she
25 wants to comment about trapping practices. She says

1 that for her, you know, it's too early to go trapping
2 at this time of the year because the pelts are not at
3 their prime. She says, when I go trapping the time I
4 go is when the rabbit is fully white and, she says,
5 that's when I would go back.

6 And that's all she has to say.

7 MR. HUNTER: Might I ask for about a
8 five-minute break?

9 MADAM CHAIR: Certainly. And thank you,
10 Mr. and Mrs. Nawageesic. Thank you very much.

11 MR. HUNTER: Thank you.

12 MADAM CHAIR: Short break, Mr. Hunter?

13 MR. HUNTER: Five minutes.

14 MADAM CHAIR: Ten minutes, Mr. Hunter.

15 ---Recess taken at 2:25 p.m.

16 ---On resuming at 2:40 p.m.

17 MADAM CHAIR: Please be seated.

18 MR. HUNTER: Q. Mr. Cromarty, would you
19 please ask Mrs. Crane if she would be interested in
20 making a statement -- I'm sorry, Mrs. Lastheels.

21 MR. CROMARTY: Thank you very much. By
22 the way, this is my sister-in-law here, so it's a
23 family effort.

24 MRS. LASTHEELS: (Through Mr. Cromarty)

25 A. Mrs. Lastheels said that there isn't

1 very much that I want to add to the presentations that
2 have been made. She says that from what I've heard
3 from the presentations that have been made that the
4 issues have been fully covered, but there are two -- I
5 guess, two matters that she wanted to comment on.

6 The first had to do with pesticides, use
7 of pesticides and that she is concerned about what
8 effects the use of pesticides will have. As well, she
9 also wanted to comment regarding forestry operations,
10 the cutting of timber. I guess her concern is what
11 effect these activities will have on future
12 generations.

13 She says there's a lot of officials
14 sitting around in this room today and is there anybody
15 here that can tell me what effects that's going to have
16 on the future of our children?

17 She says that she doesn't -- like, she
18 won't see the regrowth of the trees, I guess, that are
19 predicted to take place once these trees are cut, I
20 guess, she won't see regeneration in her lifetime, so
21 is there anybody who can comment on that aspect of it?

22 MADAM CHAIR: There's certainly nothing
23 that the Board can say about that today, but I would
24 hope that any questions that Mrs. Lastheels would have
25 could be answered by someone from the MNR or someone

1 from the industry, if she's concerned about regeneration
2 in her particular area.

3 I don't know if there are any numbers
4 available on how much wood has been cut and how much
5 has been replanted or seeded, but I would suggest that
6 if there are any such numbers that they be given Mrs.
7 Lastheals.

8 MRS. LASTHEELS: (Through Mr. Cromarty)

9 She says that like the previous speakers
10 before her I could have talked about life in the past.
11 She says, I am of the same age as the previous speakers
12 and my story is the same, my past is the same, and I
13 wouldn't want to dwell too long regarding the past but,
14 she says, that what I'm concerned about is the future
15 and that's why I asked that question about the effects
16 of forestry operations on our people, what the future
17 holds.

18 She says, presently that she's a widow,
19 still she lives in Osnaburgh. She says that she's
20 carrying on the work that her husband started, he
21 was -- her husband was a Chief in the past and I tried
22 to reflect the thoughts and the wishes that my husband
23 had, the aspirations that he had in the past and the
24 work that I do today, she says.

25 As well, her husband was also involved

1 with religion, spreading of religion and she says she
2 also has an interest in the spreading of every
3 religion.

4 And she says that there isn't much more
5 that I can add, I guess, until I hear what the Ministry
6 of Natural Resources has to say, or timber companies,
7 on the effects of harvesting operations on the life of
8 the people.

9 And that is all she had to say.

10 MADAM CHAIR: Mr. Cromarty, Mr. Martel
11 had a suggestion with respect to Mrs. Lastheels'
12 concern about regeneration; and, that is, if there's
13 any MNR or company planting or regeneration operation
14 near Osnaburgh, perhaps a tour could be arranged to
15 take some of the witnesses, or some of the people in
16 the area to see how those operations are done.

17 The Board will leave that with you, Mr.
18 Freidin, and you might be able to coordinate something
19 through Mr. Hunter.

20 MR. HUNTER: Windigo will assist on this
21 one.

22 MR. CASSIDY: Madam Chair, I can also
23 inform you that last week officials from Canadian
24 Pacific Forest Products were scheduled to meet with the
25 leadership of the Osnaburgh band to discuss some of the

1 issues raised by Ms. Lastheels and others.

2 That meeting was postponed at the request
3 of the band until some time in October, but it is
4 scheduled to go ahead.

5 And Mr. Murray Ferguson, sitting beside
6 me, is one of the officials who is scheduled to meet
7 with them. I'm sure he'll raise that matter with the
8 band at that time. That is part of the discussions
9 that are anticipated to take place.

10 MADAM CHAIR: Thank you, Mr. Cassidy.

11 MR. CROMARTY: (Translating statements
12 into Oji-Cree)

13 MADAM CHAIR: Thank you very much, Mrs.
14 Lastheels.

15 MR. HUNTER: Q. Mr. Beardy, you
16 indicated you wanted to make a few comments.

17 MR. ISACC BEARDY: (Through Ms. Mosquito)

18 A. Mr. Beardy would also like to extend
19 his -- or rather I guess, he would like to -- I'm
20 sorry, verbalize his appreciation and gratitude for the
21 opportunity to be able to express some views.

22 It appears that a great amount of work
23 has been done with respect to -- well, by all parties
24 involved. A great amount of work has been done with
25 respect to this Environmental Assessment on Timber

1 Management Planning.

2 He says, I appreciate the involvement or,
3 I guess, firstly he appreciates the fact that the
4 Chiefs of Nishnawbe-Aski Nation realize that there was
5 an issue that they should respond to and that the
6 Chiefs within Nishnawbe-Aski Nation mandated the
7 executive to work on it and he thanks the Grand Chief
8 for supporting this process to the end and he
9 commends -- and I guess in general he commends all
10 those that have been involved, commends the fact that
11 Windigo, for the most part, has carried on most of the
12 work and the fact -- and I guess he also refers to the
13 Ministry of Natural Resources' involvement in this
14 whole process as well.

15 I guess of all the issues that have been
16 discussed today the one issue that he is most concerned
17 about with respect to timber activities is the
18 spraying, the spraying of trees, and he's concerned
19 about the effects of spraying on the wildlife in
20 particular and he's concerned for the future
21 generations, and I guess his concern is that if it
22 affects the wildlife it will get into the food chain to
23 the point that it will affect the future generations.

24 That is the only concern he wanted to
25 make known to the Board.

1 And, again, he expresses his thanks.

2 MADAM CHAIR: Thank you, Mr. Beardy.

3 What is Mr. Beardy's first name?

4 MS. MOSQUITO: Isaac.

5 MR. HUNTER: Isaac.

6 MADAM CHAIR: Thank you very much, Mr.

7 Beardy.

8 MR. HUNTER: Q. Mrs. Loon, I'm sorry.

9 MRS. LOON: (Through Mr. Cromarty)

10 A. She says she has a few comments to
11 make.

12 I guess, she says, I would like to start
13 off by stating that I haven't earned my livelihood
14 through the earning of wages or through salary, she
15 says, all my life I have derived my livelihood from the
16 use of the land.

17 She says that her grandfather earned his
18 income from trapping in the wintertime and provided for
19 the family through fishing in the summer. She says,
20 this is the life that I grew up with and this is the
21 life that I am pursuing.

22 She says that as a result I feel that I
23 am an Indian. Her understanding was that the creator
24 gave the Indian a way of life to pursue and, as well,
25 the white man was also given land and a way of life to

1 pursue and how to raise their young.

2 She says that the Indian people have
3 suffered many consequences as a result of their contact
4 with the white man. She says that especially the young
5 people are suffering very severely, to the extent of
6 being destroyed by the encounter with the white man, as
7 a result of the effects of encountering the white man.

8 She says, I'm trying to raise my family
9 in the traditional way of living off the land. She
10 says, as a way of example, like, when I came here to
11 attend this hearing, she says, I left from our hunting
12 territory. She says, there are some young people that
13 it's very difficult to try to raise in the traditional
14 way, even with their own children.

15 As well, she says, my husband still
16 enjoys this way of life, the life of hunting and
17 trapping.

18 ---Discussion off the record

19 MR. CROMARTY: I had to get a
20 clarification there on the last point.

21 MRS. LOON: (Through Mr. Cromarty)

22 She says that with respect to this
23 hearing, she says, I would have been very happy to have
24 seen the MNR Minister, to have been here, she says, to
25 be able to respond to some of the concerns that have

1 been expressed here.

2 She has some concerns with respect to
3 enforcement of MNR, their enforcement of game and fish
4 laws. She says that there seems to be a double
5 standard where the laws are enforced with respect to
6 Indian people, but when it comes to the employees of
7 the Ministry itself, that there doesn't seem to be the
8 enforcement of these laws.

9 MR. CROMARTY: I made a slight mistake
10 there in my interpretation with respect to enforcement
11 policies. It wasn't with respect to MNR employees that
12 she was concerned about, that was my mistake, she was
13 referring to MNR's enforcement policies with respect to
14 non-Native people in general. It was not the MNR
15 employees that she was concerned about.

16 MRS. LASTHEELS: (Through Mr. Cromarty)
17 What she's saying is that she personally
18 observed, I guess, this one incident where there's
19 American hunters coming onto their hunting territory,
20 and whether it's for hunting moose or for fishing,
21 sports fishing, these American hunters are there
22 amongst the Indian people, the Native peoples'
23 territory.

24 She says that what she observed was
25 that - and this was one incident where, I guess, a

1 moose had been shot by a waterfall and that it was just
2 left there by whoever shot the moose, it wasn't Indian
3 people.

4 I guess she doesn't feel that that is
5 appropriate and that if an Indian person were to do
6 that the Indian person would be vigorously prosecuted;
7 whereas, if a non-Native person does this, they seem to
8 be allowed to get away and the enforcement is not as
9 rigorous.

10 I guess another example of the concern
11 with respect to enforcement policies of MNR
12 conservation officers is the fact that they don't --
13 they do not always necessarily wear their uniforms when
14 they're enforcing conservation laws, you know, they
15 just wear normal clothes, and she's concerned about
16 that.

17 Like an example to show, I guess, to try
18 to trick Indian people and to catch Indian people as
19 compared to their relations with the non-Native people
20 is what she's saying, that they wouldn't do that.

21 She's also aware of two incidents where
22 Indian people were charged as a result of -- or when
23 conservation officers didn't have their uniforms on.
24 One of these incidents involved meat.

25 She says that there were two officers

1 involved and they asked for meat from this one
2 individual, and although the individual refused the
3 payment of money, the officer or officers placed the
4 money in the Indian person's hand and the Indian person
5 was subsequently charged and tried as a result of
6 selling the meat.

7 She says, there is a reason why I am
8 bringing these incidents to your attention, she says,
9 and the reason why she's doing it is, it appears that
10 what government is saying that they're trying to do,
11 which is to try to help Indian people, is not reflected
12 by the actions that they are taking against Indian
13 people, and even to the point of trying to trick Indian
14 people so that they can charge them for these offences.

15 She says that she's not a regular
16 participant of meetings like this, she says, that this
17 is probably the third time in her life that she has
18 participated in a meeting like this, even in Osnaburgh
19 when there's meetings held in Osnaburgh and where
20 there's government officials coming in, she hasn't
21 participated.

22 She would next like to comment on the
23 timber harvesting.

24 She had one final comment she wanted to
25 make with respect to trapping. She says last fall we

1 were told that we had to start using these new traps
2 and it seems that all our affairs of Indian people are
3 being governed by the Ministry of Natural Resources or
4 else by the white man in general. We were told that
5 with the use of these new traps that there would be
6 less damage to the pelts but, in actual fact, there is
7 more damage to the pelts as a result of using these new
8 traps.

9 She says it's very -- it seems like that
10 the traditional life that we had in the past, that we
11 can't follow it in this day and age because we have MNR
12 regulations governing our activities.

13 As well, there's other things that white
14 people in general want that affect the Indian way of
15 life. She says, I just wanted to make that last point.

16 She says with respect to timber
17 harvesting, she says, her concern is not only with the
18 trees themselves, but she also has concerns about their
19 livelihood or their manner of providing a livelihood
20 for themselves.

21 She says in raising her children that she
22 did not rely upon store goods to nourish her children,
23 she said she used the resources of the lands to raise
24 her children. As well, she's also got concerns about
25 the use of pesticides, especially if the pesticides are

1 going to be released through the use of planes.

2 She has some concerns about what effects
3 that will have on the young child, will it lead to
4 sickness, will it lead to death. She also has concerns
5 about what the use of pesticides will have on animal
6 life. She says that there will be a lot of animals
7 that will also die as a result of pesticides. It's not
8 only the bugs that will be killed by the pesticides,
9 there's crows will be affected, other animals, as well
10 the fish will also get affected if these pesticides are
11 going to be spread through the use of airplanes.

12 She says that she did go berrypicking
13 close to one of these forest cutting sites close by
14 her, she says, and she says that we did not go at the
15 time that there was the use of pesticides in the area
16 but, she says, pesticides are poison and the berries
17 that they pick are poisoned as a result.

18 Plus, we know from the use of pesticides
19 that vegetation dies from the use of pesticides and she
20 is saying that this will lead to the poisoning of human
21 beings.

22 She's referring to the cutting site close
23 by her where they went. She's saying that at these
24 cutting sites not all the trees are taken away for use,
25 they saw trees that were left there, left there in the

1 past, left there in piles and she saw those trees or
2 those logs rotting away.

3 The final point has to do with their
4 traditional trapping grounds, their hunting grounds,
5 that when land is being designated for timber
6 harvesting, she says, that we would be concerned with
7 that allocation. She says that we want to be able to
8 use the land that was provided to us by the creator and
9 to be able to continue to hunt and trap that area as
10 well.

11 She says, I would like to express my
12 thanks to Isaac for the prayer that he offered this
13 morning and she also says I am glad that the work with
14 respect to our presentations and the work of the Board
15 will be concluded successfully.

16 She says that she doesn't, you know,
17 understand English and everything that is being said
18 and that she's glad that she was given this opportunity
19 to participate at this Timber Class Assessment Hearing,
20 she said, this hearing.

21 She says that there are, you know,
22 leaders in Osnaburgh that are not here but that I am
23 glad for the opportunity to be able to speak on the
24 concerns that she had.

25 MADAM CHAIR: Thank you very much, Mrs.

1 Loon.

2 MR. CROMARTY: For Mr. Martel's
3 information, if you observe my tie here, it doesn't
4 reflect my political leanings.

5 MR. HUNTER: Mrs. Crane. Mrs. Crane is a
6 councillor at Slate Falls.

7 ---Short recess taken at 3:35 p.m.

8 ---On resuming at 3:40 p.m.

9 MR. HUNTER: Q. Ms. Crane?

10 MS. CRANE: A. I want to make it really
11 short because I hear George is in a hurry to go home.

12 I come from a -- well, I come from Slate
13 Falls and lived there most of my life and I just
14 wonder, you know, with the timber activities coming up
15 I have, you know, I have the question, you know -- you
16 know, what's ahead and, you know, what's the future
17 generations and what the future generations are going
18 to be like in our community.

19 We use trees for firewood and building
20 cabins, as you all know, we live in cabins up there
21 and, you know, as I look at land, you know, when you
22 fly in you look at the land and you see all the cutting
23 that's been done and, you know, I have to wonder, you
24 know, what's our land up there going to be like in a
25 few years or whenever.

1 You know, whenever the cutting is going
2 to be done and, you know, I guess I have all these
3 questions and, you know, what effect will it have on
4 our hunting because we have seasonal hunting in the
5 fall and in the spring, you know.

6 You know, what effect will that have on
7 the wildlife. And hunting is, you know, is very
8 important to us in our tradition, you know, with the
9 Native people. And, you know, it is true that the
10 Native people are a sharing, caring people, you know,
11 whatever we get off the land we share with the
12 neighbours, you know, and it's very important.

13 And that's all I have to say, you know.
14 You know, just looking at flying all over, you know,
15 you see all the activities that are going on.

16 Thank you.

17 MADAM CHAIR: Thank you very much, Ms.
18 Crane.

19 MS. MOSQUITO: (Translating answer into
20 Oji-Cree)

21 MR. HUNTER: Thank you. Our last witness
22 is Mr. McKibbon.

23 MR. MARTEL: Is he not going to speak?

24 MR. HUNTER: He's been instructed. He
25 doesn't wish to speak.

1 MR. MARTEL: I was just asking.

2 MR. HUNTER: Q. And I'm going to ask Mr.
3 McKibbon to do three things, and basically answer three
4 questions for the Board, for NAN and Windigo.

5 First, to identify to the Board what our
6 objectives were over the course of the last, I guess
7 it's now six or seven years, to highlight - and I mean
8 highlight - the key provisions of the terms and
9 conditions, to give his professional opinion to the
10 Board as to whether the terms and conditions proposed
11 meet those objectives, and to identify whether, in his
12 opinion, these terms and conditions meet the
13 requirements of the class assessment.

14 MR. McKIBBON: A. Nishnawbe-Aski and
15 Windigo Tribal Council have sought three objectives in
16 the drafting of terms and conditions and in the
17 negotiations which have led up to the Statement of
18 Agreement Concerning Principles for Terms and
19 Conditions.

20 And those three objectives are: First,
21 to ensure that northern Native communities have the
22 opportunity to effectively participate in the timber
23 management planning process; secondly, to ensure that
24 the socio-economic and cultural concerns of northern
25 Native communities are incorporated into the timber

1 management planning process; and lastly, to secure a
2 workable process in terms of the First Nations and also
3 in terms of the Ministry of Natural Resources and the
4 forest industries.

5 Q. Go ahead.

6 A. The Statement of Agreement includes
7 19 principles to be used in the drafting of the final
8 terms and conditions and I'll give a brief overview of
9 those and highlight some of the points.

10 The first three principles in Exhibit
11 1957 address the administrative context within which
12 timber management planning occurs, and the first
13 provides for the use of advisors from government
14 agencies responsible for Native affairs with the
15 planning team.

16 The second provides for participating in
17 the timber management stakeholders committee
18 irrespective of whether the First Nation adopts the
19 standard consultation procedures or the special
20 consultation procedures that are set out later.

21 And the third provision provides for the
22 district manager, or ensures that the district manager
23 will have regard to government policy and obligations
24 with the respect to First Nations.

25 Principle 4 is important in that it

1 provides for the translation of the many important
2 notices that will be issued in timber management
3 planning and it also provides for the use of Native
4 media where appropriate.

5 Condition 5 provides an option for the
6 affected First Nation in that either the standard
7 consultation procedure which the Ministry proposes to
8 use can be used, or there can be use of a special
9 consultation procedure, and it also ensures that this
10 will apply for First Nations, not only within the
11 forest management unit but also adjacent to the unit.

12 Condition 6 sets out the contents of the
13 background report which would be prepared at the outset
14 of the procedure, and I would like to just highlight
15 two points.

16 Principle 6(b) and (d) provide for the
17 consideration of other forestry uses within the
18 planning process.

19 MADAM CHAIR: Excuse me, Mr. McKibbon.
20 Is this the element of the term and condition for the
21 First Nation environmental study report?

22 MR. McKIBBON: This is principle 6 on
23 page 2, which is the background report. The subsequent
24 report I'll refer to later.

25 MADAM CHAIR: All right.

1 MR. McKIBBON: Condition 7 is important
2 because it provides for the choice between the special
3 consultation procedure, between selecting that
4 procedure or opting for the standard procedure, and it
5 also allows for the background report review and
6 comment.

7 Whether the First Nation uses the special
8 consultation provisions which are provided for here or
9 opts for standard timber management procedure, their
10 values, their land uses and their concerns will be
11 addressed in respect of, and that is provided for in
12 principle 8.

13 Principle 9 provides for the special
14 consultation process and, in that process, the formal
15 documentation requirements should be stipulated and, in
16 fact, that is the environmental report that you
17 referred to which is set out in condition -- or
18 principle 10 following.

19 In addition, there will be discussion of
20 what is the best way of getting information and
21 transmitting information back and forth, whether it
22 should be written, when the meetings should occur, who
23 to call and things of that nature.

24 MADAM CHAIR: Excuse me, Mr. McKibbon.
25 In Witness Panel 5 there had been a discussion about

1 deadlines of 30 days and so forth on various stages of
2 the special consultation process. Do those still
3 apply?

4 MR. McKIBBON: Those deadlines will be
5 discussed pursuant to principle 7 and, hopefully, some
6 agreement will be determined as to what's appropriate
7 in each individual circumstance.

8 MR. MARTEL: Can I go back to 7 for a
9 moment. Does this presume that the method of
10 preplanning will be that of the Ministry, or would it
11 make any difference if it were -- to the final outcome
12 if it were, let's say, part of the planning process
13 advocated by the industry?

14 Would it make any difference to 7,
15 regardless of which system or the final system that is
16 going to be put in place?

17 MR. McKIBBON: It would make no
18 difference.

19 MR. MARTEL: It would make no difference.

20 MR. McKIBBON: I would like to draw you
21 to one point with respect to Principle 10(1)(c) on page
22 4, and that is the last portion of that paragraph:

23 "For cultural heritage sites; i.e.,
24 graveyards, spirit sites and former
25 settlements alternative proposals will be

1 provided to the Native community for
2 comment and identification of their
3 preferred alternative."

4 MADAM CHAIR: Excuse me, Mr. McKibbon, in
5 this -- in point 9 and 10, where does your discussion
6 of the Witness Statement No. 5 with respect to an
7 automatic bump-up to an individual EA, first a
8 negotiations process and then an automatic bump-up to
9 an EA if they're unsuccessful.

10 Does that still fit into this condition?

11 MR. McKIBBON: There is no reference to
12 that in this condition, no.

13 MADAM CHAIR: Is there anywhere in the
14 agreement; does that remain as an element?

15 MR. McKIBBON: The subject of bump-up and
16 matters arising out of it are still under discussion in
17 the multi-party negotiations and I can't be too sure
18 what is going to come out of that.

19 I think that as a practical matter when I
20 look to that condition or that principle with respect
21 to alternative treatments of heritage sites, we have
22 not addressed the question of who should have the final
23 say in these terms and conditions, but I think it would
24 be unusual for Ministry, after having followed this
25 procedure, to not adopt the recommendations of the

1 First Nation, and the normal provisions for bump-up
2 would apply in any event.

3 MADAM CHAIR: Yes. The Board took it in
4 Witness Statement No. 5 that, in fact, NAN was seeking
5 not a normal bump-up requirement, that NAN was seeking
6 separate bump-up requirement that would kick into place
7 if there were unresolved problems in the timber
8 management plan and they couldn't be negotiated.

9 MR. McKIBBON: That is not here.

10 Principle 11 provides for a reasonable
11 level of translation of certain of the documentation
12 and, obviously, the background report and the report
13 referred to in principle 10. They would be eligible
14 candidates for that translation, all or part thereof.

15 Principle 12 is important because it
16 provides for linkage between this special consultation
17 procedure and the general consultation procedure which
18 the Ministry will utilize in the preparation of timber
19 management plans.

20 Principle 13 provides for similar
21 consultation opportunities with respect to major
22 amendments and other categories of amendments and
23 contingency plans.

24 Some values identified by communities may
25 be very sensitive, and there is a provision in

1 principle 14 for confidentiality of information, so
2 that all that would be shown would be a primary
3 description and, for sensitive cultural sites, there
4 would be no further information provided in the plan.

5 Principle 15 deals with the question that
6 you referred to earlier with respect to timing, and the
7 identification of individuals who will be the channels
8 through which information will flow back and forth.

9 MADAM CHAIR: Excuse me. Does this apply
10 to contact people within the NAN communities as well as
11 in MNR?

12 MR. McKIBBON: That's right.

13 And principle 16 reviews the mapping
14 requirements. Of special note is a map summary of the
15 yearly activities to be undertaken on a yearly basis.
16 This will be an important addition for the transmission
17 of information.

18 Principle 17 deals with an assessment of
19 the advantages and disadvantages of access
20 alternatives, and that will include socio-economic
21 advantages and disadvantages.

22 Principle 18 provides for a brochure and
23 this will be key because it will set out these various
24 opportunities for each First Nation so that they can be
25 utilized.

1 And the last principle refers to the
2 review by appropriate provincial ministries and
3 agencies of both the background report and the report
4 referred to in principle 10.

5 MADAM CHAIR: With respect to the
6 elements of those principles, is there anywhere in
7 Exhibit 1957, which is the agreement, anything about
8 the pesticides issue with respect to the description in
9 Witness Panel 5?

10 MR. McKIBBON: It's covered in four ways.
11 First of all, in principle 4 there is provision for
12 notice, timely notice and translated notice, it's also
13 addressed in principle 6(c) through the identification
14 of significant natural resource features, land uses and
15 values of concern to the First Nations. There are six
16 examples provided there, but there are many more.
17 Where these had been identified, these will have to be
18 addressed.

19 The consultation procedure, both the
20 standard and the special provisions, will also allow
21 the First Nations an opportunity to discuss any type of
22 prescription and comment on its appropriateness.

23 And, last, principle 16 provides for the
24 mapped summary of activities to be conducted in the
25 forest management units on a yearly basis. That map

1 summary will provide some indication to the First
2 Nation at an early date of what areas might be
3 considered for protection activities.

4 MADAM CHAIR: Is the position of NAN and
5 Windigo that they are still opposed to the spraying of
6 chemical pesticides and that they still support the
7 idea of buffers around the values they identify?

8 MR. McKIBBON: The buffers, if you wish,
9 will be something that is addressed in the examination
10 of individual values through the consultation process.

11 MADAM CHAIR: Is there anything in the
12 agreement, in Exhibit 1957, that corresponds to the
13 items in Witness Panel 5 on monitoring?

14 MR. McKIBBON: No, there isn't.

15 MADAM CHAIR: And what is the intention
16 of NAN with respect to that?

17 MR. McKIBBON: Those matters -- this is
18 what we sought.

19 MR. MARTEL: Are you still relying then,
20 to some extent, on the negotiations which are still
21 going on amongst all the various parties in addition to
22 the agreement which you've reached?

23 MR. McKIBBON: Yes. Certainly there will
24 be provisions with respect to the general other matters
25 that will provide some comfort as well.

1 MR. MARTEL: So these are the basic
2 elements that you really wanted guaranteed, the rest
3 is -- would be if you got things out of it that were
4 what you desired, let's say, icing on the cake?

5 MR. McKIBBON: That is fair.

6 MADAM CHAIR: With respect to the items
7 discussed on Witness Panel 5 having to do with measures
8 to mitigate impacts and proposals concerning potential
9 compensation, are those matters that are not addressed
10 in Exhibit 1957?

11 MR. McKIBBON: Hopefully they will be
12 addressed in the negotiations that are referred to in
13 the correspondence from the Minister.

14 MADAM CHAIR: On self-government.

15 MR. McKIBBON: Well that as well, more
16 specifically.

17 MADAM CHAIR: Timber allocation?

18 MR. McKIBBON: And allocation.

19 MADAM CHAIR: And, in those negotiations
20 going on, or whatever stage they're at with the
21 Ministry of Natural Resources, that is also where you
22 would cover the topics of employment opportunities.

23 MR. McKIBBON: Exactly. That is under
24 discussion.

25 MR. MARTEL: You're using the terms

1 allocation and licensing, you use the term allocation
2 primarily. I presume you're looking at some form of
3 third party agreements or licensing of your own areas
4 to improve the opportunities for the Indian people?

5 MR. McKIBBON: Yes.

6 MR. HUNTER: How that will be done, will
7 have to be --

8 MR. MARTEL: That is fine.

9 MADAM CHAIR: Is there anything else you
10 wanted to tell the Board about the agreement, Mr.
11 McKibbon?

12 MR. HUNTER: Q. I think there's just two
13 final questions; one is your advice to the clients and
14 to the Board with respect to whether this agreement
15 fulfills the objectives as stated, and whether it
16 fulfills the requirements of the EA Act and the Class
17 Assessment, in your opinion?

18 MR. McKIBBON: A. In my opinion, my
19 recommendation to both Nishnawbe-Aski and Windigo
20 Tribal Council and to the Board is that the objectives
21 which we sought are achieved in the Statement of
22 Agreement and the covering letters which are attached
23 to it, and that the agreement is consistent with
24 6(5)(3) of the Environmental Assessment Act.

25 MR. HUNTER: Thank you. And that is our

1 case.

2 MADAM CHAIR: Ms. Gillespie, will you
3 have any questions in cross-examination?

4 MS. GILLESPIE: No, Madam Chair, we have
5 no questions in cross-examination. I do have a couple
6 of comments for the record, however, if you want me to
7 make them now.

8 MADAM CHAIR: Go ahead.

9 MS. GILLESPIE: Just for the record, as
10 you're aware, the Minister of the Environment was not a
11 party to the negotiations leading up to this agreement,
12 we have seen it this week, but we would like to say
13 that we're delighted that the parties have been able to
14 reach agreement, in principle, and that it will
15 obviously shorten the proceedings.

16 We see nothing in the agreement that we
17 have concerns with at this point, and we will be
18 reviewing the detailed terms and conditions when they
19 are available.

20 The only concern that the Ministry of the
21 Environment did have seems to have been addressed and
22 that was the linkage of the special consultation
23 process with the general planning process, which
24 appears to have been addressed in this agreement.

25 Those are all my comments, Madam Chair.

1 MADAM CHAIR: Thank you, Ms. Gillespie.

2 Mr. Cassidy, will you have any questions?

3 MR. CASSIDY: No.

4 MADAM CHAIR: Thank you. Mr. Freidin?

5 MR. FREIDIN: Could I have one moment to
6 speak to Mr. Hunter, please?

7 ---Discussion off the record

8 MADAM CHAIR: Mr. Freidin?

9 MR. FREIDIN: I will be brief.

10 CROSS-EXAMINATION BY MR. FREIDIN:

11 Q. Mr. McKibbon, and perhaps if
12 necessary through you Mr. Hunter, can you confirm that
13 the intention, as a result of the agreement which has
14 been filed, is that terms and conditions will be
15 drafted to reflect the elements or principles set out
16 in that agreement that the relief sought in those newly
17 drafted terms and conditions will be the only relief
18 which NAN and Windigo will seek from this Board, and on
19 the assumption that satisfactory terms and conditions
20 along those lines are drafted, that the other items --
21 well, that the draft terms and conditions which have
22 been filed with the Board already will, in effect, be
23 withdrawn?

24 MR. HUNTER: That's correct.

25 MR. FREIDIN: And that you will not be

1 seeking any relief other than that which is contained
2 in the newly drafted terms and conditions.

3 MR. HUNTER: That's correct.

4 MR. FREIDIN: All right, that's fine.
5 Are.

6 MADAM CHAIR: Excuse me. Is the Board to
7 understand that at the end of the day, if NAN and
8 Windigo believe the exact drafting of the terms and
9 conditions are not consistent with the elements
10 identified in these principles, in that case they won't
11 be satisfied and they will be bringing more evidence?

12 MR. FREIDIN: That is correct.

13 MADAM CHAIR: Than Witness Statement No.
14 4?

15 MR. HUNTER: That is correct.

16 MR. FREIDIN: The point I was trying to
17 make, Madam Chair, was to address something which gave
18 rise to my concern about one of your questions that
19 bump-up is an item which is raised in their Panel No.
20 5, it is not an item which is set out in the agreement.

21 Assuming we finalize terms and conditions
22 which reflect the elements and principles in the
23 agreement, NAN and Windigo will not be coming to the
24 hearing at the end and taking a position on bump-up.
25 They will leave the issue of bump-up to be dealt with

1 by other panels, to be the subject matter of
2 submissions to the Board by other parties and that they
3 will, in fact, agree to or live with the decision of
4 the Board in relation to that.

5 MR. HUNT: That's correct.

6 MR. FREIDIN: Okay.

7 Q. Mr. McKibbon, there's reference to
8 the Musselwhite Agreement, the planning agreement. Am
9 I correct that the entire area which is the subject
10 matter of that agreement is north of the area of the
11 undertaking?

12 MR. McKIBBON: A. Yes.

13 MR. FREIDIN: And the last item, Madam
14 Chair, that I would like to deal with is really a
15 comment. It's a response to a statement made by Grand
16 Chief Cheechoo.

17 Mr. Cheechoo, you indicated that you felt
18 that the agreement which has been reached is an
19 achievement, and you said that the spirit of that
20 agreement will hopefully go forth in the future.

21 I just wanted to say to you, and to the
22 other members of the Nishnawbe-Aski Nation that are
23 here, that that is the hope of my client, the Ministry
24 of Natural Resources as well.

25 Thank you very much.

1 MADAM CHAIR: Mr. McKibbon, before we
2 lose you, the Board has just two more questions of
3 clarification, or perhaps Mr. Hunter wishes to ask this
4 as well.

5 This has to do with what is the point of
6 departure at which the standard consultation process
7 within TMP switches into the special procedures
8 anticipated, that's the first question.

9 MR. McKIBBON: The community and the
10 Ministry will meet early in the procedure, and that is
11 provided for in principle 7, and subsequent to that
12 meeting, after there have been some discussion of
13 what's proposed generally, the community will have the
14 opportunity to reflect and make a decision as to
15 whether they wish to utilize the special consultation
16 procedure or rely on the standard procedure.

17 MADAM CHAIR: And is MNR thereby required
18 to enter into the special consultation procedure simply
19 by a request from the communities?

20 MR. McKIBBON: Yes.

21 MADAM CHAIR: All right, thank you.

22 And our second question has to do with
23 this matter of bump-up; and, that is, it hasn't escaped
24 the Board's attention that with respect to the Dona
25 Lake Agreement and other agreements that the request

1 for a bump-up was part of the initiating response to
2 getting discussions on those agreements underway.

3 The Board simply wants to know - now that
4 we know you've set aside an automatic bump-up provision
5 as explained in Witness Statement 5 - if NAN is able at
6 any time to request a bump-up, as any other member of
7 the public would, under any set of terms and
8 conditions?

9 MR. McKIBBON: They would have the
10 ability to do that, yes.

11 MR. HUNTER: I think I should clarify,
12 neither the Dona Lake nor Golden Patricia or
13 Musselwhite were triggered by bump-up requests per se,
14 they were triggered by a request for designation. So
15 it was a different mechanism.

16 MADAM CHAIR: All right.

17 MR. HUNTER: It wasn't a bump-up
18 provision -- it was not a bump-up provision which
19 triggered those processes.

20 MADAM CHAIR: No, but it was a request
21 for an individual environmental assessment?

22 MR. HUNTER: That's correct.

23 MADAM CHAIR: Yes. The Board doesn't
24 have any other questions.

25 Do you have anything else to say, Mr.

1 Hunter?

2 MR. HUNTER: Only if I might make a final
3 comment. The first is, that you've heard from our
4 clients that they have viewed this exercise as
5 important, a substantial amount of work, effort and
6 heartache has gone into our participation, and we will
7 continue to participate both in the OFAH case and with
8 respect to the continued negotiations and the drafting
9 of the final terms and conditions.

10 I think the comments of all of the
11 parties here, and certainly the comments of Mr.
12 Cheechoo, in opening the day reflect the commitments
13 and the interests of NAN and Windigo.

14 On a personal level I would like to
15 thank. On behalf of Mr. McKibbin and Ms. Mosquito, the
16 efforts of particularly Mr. Kennedy and Mr. Waring.
17 Throughout the course of negotiation, it will please
18 Mr. Martel to no end to realize that we made a
19 commitment not to have lawyers involved in those
20 negotiations. I won't draw a finer point on that.

21 MR. MARTEL: We have an agreement.

22 MR. HUNTER: We have agreement. We have
23 an agreement. If I might, I would ask Mr. Beardy to --
24 I'm sorry.

25 MS. MOSQUITO: I guess, if I may have a

1 few minutes I would like to make just a few comments.

2 First is, I would like to thank the Board
3 for accommodating us, NAN and Windigo for, first of
4 all, the setting and the arrangement of this hearing.

5 I understand the hearings to date have
6 been very formal and perhaps we may have not observed
7 the formalities only because we don't have those kinds
8 of structured formalities, ours may be different, and I
9 would like to express my appreciation for that
10 accommodation.

11 And, as well, accommodating our elder to
12 open the session and to close the session.

13 MADAM CHAIR: Thank you, Ms. Mosquito.

14 Before Mr. Beardy closes our session with
15 a prayer, the Board would like to thank the witnesses
16 very much for coming here today and honouring us by
17 speaking your languages and giving us your opinions
18 about all these matters.

19 Certainly the Board has been very
20 encouraging of any negotiations that can take place
21 among the parties to these hearings, and we would like
22 to congratulate NAN and Windigo for being the first
23 party to a Class Environmental Assessment which has
24 successfully concluded an agreement with the other
25 parties, specifically the proponent, the Ministry of

1 Natural Resources, and Mr. Cassidy's clients, the
2 Ontario Forest Industries.

3 We certainly commend your hard work on
4 this project, and it's our hope that perhaps some of
5 the other parties will take a page from your book and
6 work hard on reaching these sorts of agreements that
7 are very helpful to the Board because they cut through
8 what is otherwise months and months of evidence and get
9 us down to the very basic relief that you want from
10 this Board. So we certainly thank you for leading the
11 way in this area.

12 I have asked Mrs. Maxwell to coach me in
13 saying thank you to you in your own language, and I am
14 going to say just a few words, and the faults of
15 pronunciation are all my own and not Mrs. Maxwell's.

16 Meegwech kah key nah oma kah key pih
17 ayame yeak. Nay peach ne me nway damin kah key nah do
18 the we nah gook kah anishe nah bey moo yeak.

19 Thank you very much.

20 (applause)

21 MR. ISAAC BEARDY: (Closes session with
22 Prayer in Oji-Cree)

23 ---Whereupon the hearing adjourned at 4:30 p.m.

24
25 BD [c. copyright 1985]

